

**HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side**

Present:

The Hon'ble Justice Jay Sengputa, J.

WPA 21174 of 2024

Ardhendu Kumar Ghosh

-versus-

The Indian Institute of Technology, (IIT) Kharagpur & Ors.

For the Petitioner	:	Mr. Soumya Majumdar Mr. Bikash Shaw
For the Respondents	:	Mr. Jaydip Kar Mr. Suddhasatva Banerji Mr. Debjyoti Manna Ms. Moumita Bhattacharjee
Heard On	:	23.8.2024
Judgement On	:	23.8.2024

Jay Sengupta, J.

This is an application praying for direction upon the respondents to cancel and/or not to give effect to the purported notice no. R/07 and 16/2023/SOF/2366 dated August 7, 2024.

Undertaking is given by the learned counsel for the respondent/institute to file vakalatnama by Tuesday, i.e., August 27, 2024.

Affidavit of service filed on behalf of the petitioner be kept with the record.

Learned senior counsel appearing on behalf of the petitioner submits as follows. The petitioner is a physical training instructor at the respondent no.1/Institute. He had done Masters in Physical Education. In May and October 2023, the respondent/Institute published notifications for appointment of Sports Officer. The petitioner applied for the same. The requirement was to have a Master's Degree in Physical Education from a recognized University with at least 55% marks or equivalent grade B in the seven point UGC scale in Physical Education with a diploma in sports coaching and the like. There was another condition to have three years' experience in organizing games and sports at University/Inter College level. The petitioner has been acting as a physical training instructor for the Institute for about 13 years. Although he had completed his Master Degree in 2022, for a number of years, he had been organizing games and sports at the University/Inter College level. These two conditions as referred to above have to be read disjointly and cannot be read in a manner as to imply that the experience should be, while having the Masters degree. On August 7, 2024 a list of candidates for selection was published. But, the petitioner's application number was not appearing in the same, although he satisfied all the necessary eligibility criteria. He made a representation before the concerned authority, but the same went unanswered. The interview is to take place tomorrow, i.e., on August 24, 2024.

Learned Senior Counsel appearing on behalf of the respondent/Institute denies the allegation made in the writ petition and submits as follows. The two

criteria mentioned in the notification for selection of a Sports Officer have to be read conjointly. As in the criteria specified for the other posts, an experience in organizing games and sports without the Master Degree in question required could not be considered for such purpose. When for an engineer a qualification of M.Tech is specified and it is also asked of him to show experience in certain fields for a particular period, it would necessarily imply that such experience would be while possessing such qualification, otherwise, one may claim prowess in a particular subject or field while not qualified and apply for a post after attaining such qualification. Besides, a judicial review can be sought only if an administrative action like the present one shocks the conscience of the Court. It is well within the rights of the respondent authority to have considered the eligibility of the petitioner at the stage of calling him for interview.

I have heard learned counsels for the parties and have perused the writ petition.

From a plain reading of the notifications for selection two different posts at the Institute, it is evident that certain qualifications and experience have been clubbed together under a bullet head.

In case of Sports Officer, the first requirement pertains to a degree and the second one relates to three years' experience in organizing games and sports in the University/Inter College level. In an extreme case, one might come across a situation where a person would be engaged in organizing such games at such level without having any degree or, for that matter, a lesser degree as mentioned

in the notification. This can even be at a stage where no formal qualification was obtained by such candidate by that time. In such event, the requirement of having experience in organizing games and sports at such level can not be considered for the purpose of the post because the same was without the required qualification.

Thus, if a different interpretation is given, then this would lead to absurd conclusions.

The experience mentioned here is intrinsically connected to the degree prescribed.

Therefore, the two requirements, as mentioned under the head of 'Qualification and Experience', have to be read together, meaning thereby that the experience would have to be in the capacity while having such required degree.

Besides, the decision taken by the Institute in short-listing candidates is purely an administrative one and this Court cannot sit in review, as if deciding an appeal over such decision, especially when the decision does not quite shock the conscience of the Court.

In view of the above, I do not find any reason to interfere in respect of the petitioner's prayer.

Accordingly, WPA 21174 of 2024 is dismissed.

However, there shall be no order as costs.

All parties are to act on server copy of this order duly downloaded from the official website of this Court.

(Jay Sengupta, J.)