

WPA 25433 of 2018

**Sutanu Maity
Vs.
The West Bengal Central S S C & Ors.**

**Mr. Prabir Banerjee.
... for the petitioner**

**Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey.
... for the WBCSSC/
respondent nos. 1 to 3**

Supplementary affidavit filed on behalf of the petitioner is taken on record.

The writ petitioner is an M.A. qualified candidate possessing three Master degrees in different subjects. Pursuant to the process of recruitment to the post of Headmaster, he applied on 20.06.2018. At that point of time, he possessed two Master degrees, though, with an aggregate number below 50%.

Mr. Prabir Banerjee, learned counsel appearing for the writ petitioner has referred to a further degree obtained by the writ petitioner from Netaji Subhas Open University on 03.11.2018. He has submitted, that the writ petitioner, though was not qualified in terms of the settled Rules (as amended), at the point of time when he applied for the post, in terms of marks obtained, he has subsequently been qualified by dint of the said degree obtained by him on 03.11.2018. That, for the

third time, he has obtained a M.A. degree, with a total percentage of marks of 60.88%.

The writ petitioner, in this case, is praying for the benefit of such marks obtained by him in M.A. examinations, from the Netaji Subhas Open University, to be counted by the respondent authorities, while considering his eligibility for the post of a Headmaster.

Mr. Sutanu Kumar Patra, learned counsel for the State respondent submits on the basis of the “Rules” regulating the manner and scope of selection of persons for appointment to the posts of Head Master/Head Mistress in Secondary or Higher Secondary and Junior High School, dated 21.09.2016 and a subsequent notification for amendment of the same dated 23.03.2017, that the cut off marks required to be obtained by a candidate, to be eligible for the post of a Head Master/Head Mistress, would be 50% in aggregate in a Master degree.

It is submitted that on the date of application the writ petitioner did not possess such qualifying marks and hence he cannot be considered as an eligible candidate for the said post, even if he has subsequently obtained a further Master degree with an aggregate marks of 60.88%. He has submitted that the writ petition may be dismissed.

In terms of the ‘Rules’ as mentioned above dated 21.09.2016 and its subsequent amendment dated 23.03.2017, the minimum qualifying marks

for eligibility to the post of Head Master/Head Mistress would be 50% in aggregate in a Master degree. A further provision of the said 'Rules' is worth-noting i.e., Rule 4 (proviso) :-

“Provided certificates received up the last date of the application and mentioned in the application form shall only be counted for academic and provisional qualification”.

The statutory mandate, therefore, is for consideration of the marks, which has been mentioned by an incumbent, in his application form, on the basis of the certificate obtained by him, before his filling up the form.

Considering the materials as presented before the Court in this case, it appears that the date of application of the writ petitioner is 20.06.2018. At that point of time, he was qualified with the Master degree with an aggregate of marks below 50%. Therefore, in terms of the 'Rules' as mentioned above and its amendment, the writ petitioner was not qualified for the said post, on the date of his making application, so far as the eligibility criteria as regards the marks is concerned.

No doubt and it is not disputed that subsequently the writ petitioner has obtained further Master degree with a higher total percentage of marks, which otherwise would have been beyond the minimum qualifying cut off marks, as provided in the said 'Rules'.

However, as indicated above, the 'Rule' itself provides for taking into consideration the certificate and marks, as possessed by an applicant, on the date of submission of the application form.

Therefore, there is no scope for the authorities to consider the subsequent degree obtained by the present writ petitioner in assessing his eligibility, or otherwise, the same would be de hors the provision of such 'Rules'.

It has further been submitted that the life of the panel has expired.

On consideration of all the facts and circumstances as discussed above, this Court finds no merit in the case of the writ petitioner and, as such, the writ petition should fail.

The Writ Petition being W.P.A. 25433 of 2018 is dismissed, without any order as to costs.

Urgent certified photostat copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Rai Chattopadhyay, J.)