

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

23 22.4.2025
Sc Ct. no.2

WPA 5751 OF 2025

Aratatran Patra

Vs.

Union of India & Ors.

Mr. Biswaroop Bhattacharyya
Mr. Avirup Chatterjee.

....For the Petitioner

Mr. Dibashis Basu
Ms. Debjani Ghosal
Mr. Bodhisattwa Chatterjee.

....For the Respondents

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Biswaroop Bhattacharyya, learned Counsel appears for the petitioner.

Mr. Dibashis Basu, learned Counsel appears for the respondents.

The petitioner is an aspirant for the post of **Lecturer (Orthotics)**. The petitioner aspires to participate in the concerned **Selection Process**. The primary selection criterion as would appear from **Annexure-P4 at page 37** to the writ petition is that, from the post of **Administrator (Orthotics)** which the petitioner is, the candidate must have **Eight years of regular service**. Admittedly, the petitioner's regular service tenure is **less than eight years**.

Referring to the previous eligibility criteria for the previous selection process, **Annexure-P5 at page 38** to the writ petition learned Counsel Mr. Bhattacharyya submits that, the criterion was **Five years of regular service** in the institute instead of eight years of regular service as fixed for the present selection process. This, according to him, is detrimental and prejudicial to the right of the petitioner for participating in the selection process.

Tomorrow i.e., **April 23, 2025** is the date fixed for **Written Examination** for the concerned **Selection Process**.

Mr. Bhattacharyya, learned Counsel submits that, unless the petitioner is allowed to participate in the said Written Examination pending this writ petition, his right shall be seriously jeopardized.

Mr. Dibashis Basu, learned Counsel appearing for the respondents submits that, fixing the criteria to come within the consideration zone for the present recruitment process being **Eight years of regular service** is the decision of the employer and experts. The petitioner does not even come within the consideration zone as admittedly, he has not completed the said **eight years of regular service**.

Considering the rival contentions of the parties and upon perusal of the materials on record it appears to this Court that, the participation criteria is fixed by the employer being **Eight years of regular service** and,

admittedly, the petitioner has not qualified the same as his service tenure is **less than eight years**. The submissions made on behalf of the petitioner, referring to the previous terms and conditions for the selection process where the criterion was for five years of regular service and for this time it is **eight years of regular service** is discriminatory, is not accepted by this Court at all.

To fix the criteria for the selection process is solely within the domain of the selection committee and/or the employer. Unless such criteria are proved to be tainted with malice or arbitrariness or gross illegality on the face of it, the law is well settled that, this Constitutional Court in exercise of its Constitutional power under Article 226 of the Constitution of India shall not interfere with the same.

The criteria fixed for a particular selection process are the **Rule of the Game** and this Constitutional Court has no authority in law to change the said **Rule of the Game**.

It is not the challenge of the petitioner in the instant writ petition that the participation criteria fixed for the present recruitment process are tainted with malice or arbitrariness or gross illegality on the face of it neither any particular pleading is there in the writ petition to that effect.

To maintain a writ petition the petitioner ***first*** has to satisfy this Court that a legal right or a Constitutional right of the petitioner has been infringed.

In the facts of the instant case, the petitioner does not even come within the consideration zone due to lack of qualifying criteria, as narrated above. No right of the petitioner has been infringed. This writ petition is, therefore, not at all maintainable and devoid of any merit.

Accordingly, this writ petition, ***WPA 5751 of 2025*** stands ***dismissed***, without any order as to costs.

However, it is made clear that dismissal of this writ petition shall not preclude the petitioner to participate in the appropriate selection process, if the petitioner is found otherwise eligible and qualified to participate in the same in accordance with law.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)