

12.03.2025
Item No. 15
Ct. No. 30
AN

**WPA 11657 of 2021
(CAN 1 of 2021)**

**Kshounee Khan & anr.
vs.
Kolkata Municipal Corporation & ors.**

Mr. Rabindra Kumar Mitra
Mr. Sourjya Das
Ms. Poulami Bhowmick

... for the petitioners

Mr. Amitava Chaudhuri
Mr. N. Roy
Mr. Pradipta Siddhanta

... for W.B.U.A. & F.S.

Mr. Kajal Mukherjee
Mr. Surajit Basu

... for respondent 4 & 5

Ms. Koyeli Bhattacharyya

... for W.B.M.S.C.

The present writ application has been preferred challenging the selection process vide advertisement no. 18 of 2020 and for review of the said process. The recruitment list of successful (recommended candidates) dated 08.07.2021 for the post of Veterinary Officer vide the said advertisement has also been challenged.

It is the contention of the petitioners that respondent nos. 4 and 5 who are among the recommended candidates do not have the essential qualification of two years experience in the practice of veterinary medicine including live-stock inspection which has been put down

in the advertisement no. 18 of 2020 of the West Bengal Municipal Service Commission.

The respondent no. 3, the University has admitted that the said respondents were regular candidates for the Master Degree Course.

On the other hand, learned counsel appearing for the West Bengal Municipal Service Commission has relied upon its affidavit-in-opposition wherein the following statements made in paragraph nos. 4, 6 and 8 are relevant:

“4. With reference to the statements made in paragraph nos. 14, 20 and 21 of the said writ petition. I state that vide Advertisement No. 18 of 2020 dated 21.11.2020, the West Bengal Municipal Service Commission invited on-line application for the post of Veterinary Officer against 5 Vacancy in Kolkata Municipal Corporation. For unreserved (U.R.) 3 vacancy; for Schedule cast (SC)-1 and for Schedule Tribe (ST)-1 vacancy respectively. The petitioners participated in the Selection process under SC Category and obtained the following marks:

Petitioner no. 1 secured 59 marks in Written test, 28 marks in interview, total 87 marks.

Petitioner no. 2 secured 59 marks in Written test, 20 marks in interview, total 79 marks.

That the private respondent nos. 4 and 5 also participated in the selection process under SC Category and obtained the following marks:

Private respondent no. 4, Newtom Bala obtained 76 marks in Written test and 28 marks in interview total 104 marks and got recommended for appointment under General Category.

Private respondent no. 5, Sabuj Roy obtained 75 marks in Written test and 22 marks in interview total 97 marks.

I state that both the petitioners secured much lesser marks than of the private respondents, hence their names were not recommended by the Commission.

6. With reference to the allegations made in paragraph nos. 22 to 25 of the said petition I deny and dispute all the allegations except those are admitted on records. I state that along with other members in the interview Board one expert in the subject matter Sri Utpal Das holding the post of Superintending Veterinary Officer, Health Department of Kolkata Municipal Corporation approved the experience certificates of the private respondent nos. 4 and 5.

8. I submit that the petitioners obtained much lesser marks than that of the private respondent nos. 4 and 5. As the private respondent nos. 4 and 5 secured total marks of 104 and 97 respectively in the selection process and their experience certificates were approved by the expert in the field of Veterinary, the West Bengal Municipal Service Commission recommended their names before the Kolkata Municipal Corporation for appointment.”

Learned counsel appearing for the petitioners has further relied upon a decision in the case of **District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram & anr. vs. M. Tripura Sundari Devi** reported at **(1990) 3 SCC 655** wherein in paragraph 6 of the said judgment, the Hon'ble Supreme Court has held as follows:

“6. It must further be realized by all concerned that when an advertisement mentions a particular qualification and an

appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No court should be a party to the perpetuation of the fraudulent practice. We are afraid that the Tribunal lost sight of this fact.”

On the other hand, the recommended candidates, respondent nos. 3 and 4 have relied upon a judgment in the case of **Dhananjay Malik & ors. vs. State of Uttaranchal & ors.** reported at **AIR 2008 SC 1913** in support of their contention.

Thus, considering the submissions of the learned counsel for the respective parties and the materials on record, it appears from the report, an affidavit filed on behalf of the West Bengal Municipal Service Commission that respondent nos. 4 and 5 who have been recommended for appointment have secured marks which are higher than the petitioner herein. It also appears that the experience certificate as placed by the said respondent nos. 4 and 5 were also duly approved by the expert in the field of veterinary medicine and on the same being accepted they have been recommended for appointment.

The petitioners’ further contention is that having enrolled in a regular master programme, it is not possible

for a person to have an experience during the period of the regular course which this Court is not inclined to accept. The experience certificate issued by a competent officer has been issued in respect of the experience gained by respondent nos. 4 and 5 which could very well have been gained during the time after the regular classes.

Considering that there is no bar in such cases that while pursuing a regular course a person cannot practice in the field concerned including veterinary medicine including live-stock inspection, the case of the petitioner has no merit.

The writ petition stands **dismissed**.

Consequently, the connected application also stands dismissed.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Shampa Dutt (Paul), J.)