

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 11639 of 2016

A.B.M. Rizwan Zaman

-Vs-

The State of West Bengal & Ors.

For the Petitioner : Mr. Shuvanil Chakraborty
Ms. Priyanka Patra

For the Respondent Nos.2 to 5 : Mr. Ranjay De
Mr. Basabjit Banerjee
Mr. Adityajit Abel Bose

Heard on : 28.03.2024, 11.06.2024, 19.06.2024,
26.07.2024, 04.10.2024

Judgment on : 22.04.2025

Ananya Bandyopadhyay, J.:-

1. The petitioner sought a writ of mandamus directing the West Bengal Power Development Corporation Ltd. (WBPDC) to appoint him as a stenographer. He had cleared the written, trade, and personal interview stages in the recruitment process but was ultimately rejected on grounds that his English shorthand speed, as per the certificate submitted during interview, was 80 wpm—below the 100 wpm stipulated in the recruitment notification. Despite later submitting another certificate showing 120 wpm, the petitioner's representation was ignored.

2. The Learned Advocate for the petitioners argued that since he cleared the trade test, which evaluated typing speed, he met the eligibility criteria. He claimed the certificate was a formality and that vacancies still existed, especially for the OBC-A category to which he belonged.
3. The Learned Advocate for the Respondents contended that the petitioner was ineligible as per the required qualifications and thus had no enforceable legal right. They argued that selection processes are beyond judicial scrutiny and highlighted that the final appointment depended on document verification. The respondents maintained that only the certificate produced during the interview was considered, and vacancies could not be filled by ineligible candidates.
4. The Learned Advocate for the Respondents also noted that the stenographer post had since been upgraded to Junior Personal Assistant and a new recruitment process was undertaken in 2018, in which the petitioner did not participate.
5. The present writ petition concerns the petitioner's challenge to the decision of the West Bengal Power Development Corporation Limited (hereinafter referred to as WBPDC) denying him appointment to the post of Stenographer, despite his participation in and clearance of the written, trade, and personality tests conducted under the Employment Notification No. WBPDC/Recruitment/2014-15/04. The petitioner had submitted his application for the said recruitment process and appeared for the written examination held on 29.03.2015, for which his name was published in the list of qualified candidates. Subsequently, he was called to appear for the

Trade Test held on 11.07.2015 vide Memo No. COHRA03010020/3294 dated 29.06.2015. Thereafter, the petitioner received a call for the Personality Test scheduled on 17.08.2015 at the Bidyut Unnayan Bhaban, Corporate Office of WBPDCCL, vide Memo No. COHRA03010010/3775 dated 28.07.2015.

6. Pursuant to his appearance in all stages of the selection process, no appointment letter was issued to the petitioner. On filing an application under the Right to Information Act, 2005 addressed to the Director (HR) of WBPDCCL, the petitioner was informed through a reply dated 02.03.2016, bearing Memo No. COHRA06310004/1333, that although he was shortlisted and called for subsequent stages of the recruitment process, scrutiny of his credentials revealed that his stenography certification, obtained from the Steno Institute dated 17.02.2015, reflected an English shorthand speed of only 80 words per minute and typing speed of 30 words per minute on the computer. This was below the minimum eligibility criteria as per the said Employment Notification, which required a shorthand speed of 100 words per minute and typing speed of 40 words per minute.
7. The petitioner had also obtained another certificate from Ideal Commercial College indicating a shorthand speed of 120 words per minute and typing speed of 40 words per minute. He submitted that this certificate should have been considered during the verification process. He claimed to have approached the Director (HR) with a representation requesting consideration of both certificates. As no response was received, he approached the Hon'ble Court under Article 226 of the Constitution of India, seeking a writ in the

nature of mandamus directing the respondent authorities to appoint him to the post of Stenographer.

8. The Learned Advocate representing the petitioner submitted that the petitioner had duly participated in and cleared all stages of the recruitment process, including the Trade Test, which was a technical test assessing the candidates' typing and shorthand capabilities. The results of the Trade Test, it was contended, sufficiently established that the petitioner fulfilled the required proficiency levels as set out in the employment notice. Further, the petitioner was informed during the Personality Test that the submission of the certificate was merely a formality. The certificate submitted during the Personality Test was accepted at the time, and there was no immediate indication that the petitioner's eligibility was in question.
9. The petitioner's counsel submitted that Clause 2 of the letter dated 28.07.2015 specifically stated that the Experience Certificate was required only "if any" and hence, could not be treated as conclusive proof of eligibility. According to the petitioner, several candidates with lower marks in the Trade Test had been empaneled and recruited, and two posts under the OBC-A category remained vacant following the recruitment. One such post was subsequently filled during the pendency of the writ application while the other remained unoccupied.
10. The Learned Advocate representing respondent nos. 2 and 3 submitted that the recruitment process was governed strictly by the terms laid down in the Employment Notification WBPDC/Recruitment/2014-15/04. It was submitted that the petitioner had failed to meet the eligibility requirements

mentioned therein, particularly with respect to the shorthand speed. The certificate presented at the time of document verification during the Personality Test was the one issued by the Steno Institute, which reflected a shorthand speed of 80 words per minute. The Ideal Commercial College certificate, which the petitioner claimed to hold, was never produced during the relevant stages of the recruitment process. Consequently, his candidature could not be considered.

11. It was further submitted that the verification of credentials and determination of eligibility was expressly made subject to original document verification. Clause 12 of the Employment Notification specified that any false or inaccurate information or documentation would be ground for rejection of candidature at any stage of the recruitment. The authorities also pointed out that the recruitment process was supported by an external agency, Webel Informatics Limited, for the purpose of conducting the shorthand and computer proficiency tests.
12. According to the respondents, the list of eligible candidates was prepared in compliance with the existing reservation norms. Although 20 vacancies were advertised, only 13 eligible candidates could be ultimately appointed due to failure of some candidates, including the petitioner, to meet the eligibility criteria. It was further submitted that the remaining vacant posts could not confer any vested right in favour of a candidate who was found to be ineligible at the document verification stage.
13. The Learned Advocate for the respondents further submitted that by the year 2018, the post of "Stenographer" had been re-designated as "Junior Personal

Assistant," carrying a revised pay scale with Grade Pay Rs. 3900. An employment notification had been issued for filling ten backlog vacancies in that category in compliance with the 100-point roster system of the Government of West Bengal. The petitioner had not applied under the said notification. The respondents objected to the maintainability of the writ petition, submitting that the petitioner, having participated in the recruitment process with full knowledge of the eligibility conditions, could not now contest the rejection of his candidature. It was further argued that no legal right accrued in favour of the petitioner merely by appearance in the written and trade tests or by being called for the Personality Test. The respondents also contended that the petition suffered from non-joinder of necessary parties and that the life-span of the select list had already expired.

14. The respondents placed reliance on the communications issued on 02.03.2016 and 04.05.2016 informing the petitioner about the deficiency in his qualifications. File references including Memo No. COHRA03010010/3775 dated 28.07.2015 and Memo No. COHRA06310004/1333 dated 02.03.2016 were cited in support of the respondent's position. The recruitment proceedings were conducted as per rules, and the respondent authorities asserted that they had acted within the framework of the employment notification and the relevant regulatory provisions governing recruitment in a public sector undertaking. It was submitted that no interference was called for by this Hon'ble Court in a matter where the petitioner had not been able to demonstrate compliance with the stated eligibility criteria at the time of document verification

15. In the case of **Chief Manager, Punjab National Bank and Another vs. Anit Kumar Das reported in (2021) 12 SCC 80** the Hon'ble Supreme Court, inter alia, observed as follows:-

“17.3 Thus, as held by this Court in the aforesaid decisions, it is for the employer to determine and decide the relevancy and suitability of the qualifications for any post and it is not for the Courts to consider and assess. A greater latitude is permitted by the Courts for the employer to prescribe qualifications for any post. There is a rationale behind it. Qualifications are prescribed keeping in view the need and interest of an Institution or an Industry or an establishment as the case may be. The Courts are not fit instruments to assess expediency or advisability or utility of such prescription of qualifications.”

16. The Hon'ble Apex Court in the case of **State of Rajasthan and Another vs. Anju Rini Saini reported in 2022 SCC OnLine SC 178** held that no public employment could be done except in terms of the law governing appointment, especially the eligibility criteria. It was opined that:-

“25. We are unable to accept the contentions of the respondent that being a Constitutional Court and since rights have been declared in Article 15 and being a widow warranting a sympathetic view to be taken, should culminate in our refusing to exercise our jurisdiction under Article 136.”

17. The petitioner was fully aware of the eligibility criteria as mentioned in the employment notification. Secondly, any person of ordinary prudence would

submit their best record/certificate at the time of verification of the original documents as required by the employment notification. Thirdly, when select listed candidates did not have concomitant right of employment, merely calling the petitioner for a personal interview could not create any right which could be enforced in a writ proceeding especially when the petitioner could not fulfil the eligibility criteria. Fourthly, the petitioner was not the only candidate who had been discarded on the ground of non-fulfilment of eligibility criteria, there were others as well.

18. In the instant writ petition, the petitioner has prayed for a writ in the nature of mandamus commanding the respondent authorities to appoint him to the post of Stenographer in the West Bengal Power Development Corporation Limited (WBPDC). The petitioner contended although he was selected for the written test and trade test and was called for the personal interview, he was ultimately not selected for the post. It was his submission that while the initial stenography certificate from the Steno Institute, dated 17.02.2015, reflected a speed of eighty words per minute in English Shorthand and thirty words per minute in English typing, he subsequently obtained another certificate from Ideal Commercial College showing higher proficiency—namely, a speed of one hundred and twenty words per minute in English Shorthand and forty words per minute in English typing on computer. The petitioner asserted that the subsequent certificate ought to have been taken into consideration for determining his eligibility for the post.

19. Per contra, the respondent authorities argued that the certificate from Ideal Commercial College was not submitted during the personal interview when

documents were verified. It was further submitted that in terms of Clause 12 of the General Instructions of the Employment Notification bearing No. WBPDC/Recruitment/2014-15/04, the candidature of the petitioner was liable to be rejected at any stage if found not conforming to the required eligibility criteria. The validity of the panel being one year from the date of approval, and in the absence of the required credentials at the relevant point in time, the petitioner's claim for appointment cannot be sustained. Pertinently, despite submitting a representation to the Director (HR), WBPDC, and subsequent attempts at correspondence, the petitioner did not receive any response.

20. The Learned Advocate appearing for the petitioner submitted the petitioner had successfully cleared all stages of the selection process for the post of Stenographer, including the Written Test, Trade Test, and Personality Test, yet was unjustly denied appointment despite existing vacancies, particularly under the OBC-A category. It was contended that the Trade Test served as the qualifying benchmark for assessing shorthand and typing speed, and having passed the same, the petitioner was deemed to have met the eligibility criteria. The rejection, based solely on a certificate indicating 80 w.p.m. speed—allegedly submitted informally during the Personality Test—was improper, as the said certificate was neither mandatory nor determinative per Clause 2 of the notification dated 28.07.2015. The Ld. Advocate for the petitioner further submitted that the interviewers themselves treated the document as a mere formality and the actual assessment of skills had already been sufficed through the Trade Test. The petitioner, belonging to

the OBC-A category, was denied appointment even though two posts were vacant, and candidates with lower Trade Test scores were appointed, rendering the action of the respondents arbitrary and discriminatory.

21. The Learned Advocate appearing for the respondent authorities submitted that the petitioner's candidature was rightly rejected as he did not fulfil the eligibility criteria prescribed under the employment notification WBPDC/Recruitment/2014-15/04, which clearly mandated a shorthand speed of 100 words per minute, whereas the petitioner produced a certificate reflecting only 80 words per minute at the time of document verification. It was further contended that the recruitment process was conducted by an external agency, Webel Informatics Ltd., and all candidates were duly informed that eligibility would be determined upon verification of original documents, and candidature could be cancelled at any stage upon discovery of any deficiency. The respondents emphasized that the certificate from Ideal Commercial College was never submitted during the interview and hence could not be considered. The vacancies in question were filled in accordance with applicable norms, and merely existing vacancies did not confer a right upon an ineligible candidate. It was also pointed out that the petitioner had no enforceable legal right under Article 226, as participation in the recruitment process does not create such a right in the absence of requisite eligibility. Relying upon the decisions in *Anit Kumar Das* and *Anju Rini Saini*, the respondents submitted that it is the prerogative of the employer to prescribe and enforce qualifications and that courts should not interfere in such determinations. Furthermore, the post of Stenographer had ceased to

exist and was replaced with that of Junior Personal Assistant, for which a fresh recruitment was conducted in 2018. The petitioner neither challenged the criteria at the outset nor applied in the subsequent recruitment process, thereby estopping himself from raising such a challenge now.

22. The West Bengal Power Development Corporation Limited issued an Employment Notification No.: WBPDC/Recruitment/2014-2015/04 inter alia, stated as follows:-

“The West Bengal Power Development Corporation Limited (WBPDC), a Government of West Bengal Enterprise, engaged in the business of Generation of Electricity in the State of West Bengal, invites applications from Indian Nationals to fill-up the following positions for its Corporate Office and Power Stations/Projects located at different places across West Bengal as given below:-

A. Details of Disciplines and Minimum Essential Qualifications

Discipline & Scale of Pay	Number of Posts							Minimum Essential Qualification
	UR	OBC		SC	ST	PWD	Total	Graduate with 50% marks in aggregate or Honours Graduate in any discipline from any university recognized by the UGC having proficiency in English language. Candidates must know operation of MS office with minimum speed of 100 words per minute in shorthand and Computer key depression speed of 8000 per hour,
Stenographer		A	B					
Pay Band of Rs.6300/- – Rs.20200/- with Grade Pay of Rs.3600/-	8	2	2	6	1	1	20	

								<i>knowledge of typing in Bengali font is desirable.</i> <i>Part time course / courses undertaken through Distance mode/degrees from Open Universities / sandwich courses shall not be considered.</i>
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...

G. How to Apply:

...

8. *Candidates are not required to send any document in support of their application or for appearing in the written test. However, candidates shortlisted for interview would be required to furnish documents regarding proof of Date of Birth, Qualification, Caste/Category, PWD, XSM status, Application slip, copy of payment details etc., at the time of interview, as per intimation to be given to the shortlisted candidates.*

9. *All the certificates related to qualification should be issued by a recognized Board/Institute/University only. Wherever CGPA or letter grade in a qualifying degree is awarded, equivalent percentage of marks should be indicated in the application form as per norms adopted by the University/Institute. Candidates are required to submit a Certificate to this effect from the respective University/Institute at the time of Interview.*

H. General Instructions:

1. *Before applying the candidate should ensure that he/she fulfills the eligibility criteria and other norms mentioned in the advertisement.*

...

12. *Candidature of Candidates is liable to be rejected at any stage of the recruitment process or even after recruitment or joining, if any information provided by the candidate is found to be false or is found not to be in*

conformity with the eligibility criteria so mentioned in the advertisement. Screening and selection of candidates will be based on the details provided by the candidate, hence it is necessary that the applicants should furnish only accurate, full and correct information. Furnishing of wrong/false/incomplete information will lead to disqualification and the WBPDCCL will not be responsible for any consequence arising out of furnishing such wrong/false information by the candidate.”

23. The Report in the form of an affidavit was filed on behalf of the respondents nos. 2 and 3 in terms of the solemn direction of the Hon’ble Justice Raja Basu Chowdhury dated 12.12.2023:-

“08. I say that in the said Affidavit-in-Opposition at page no. 17, the answering Respondents have categorically mentioned that the total number of notified vacancies for the post of Stenographer in the Employment Notification No. WBPDCCL/ Recruitment/2014-15/04 was 20 and the panel approved for the post of Stenographer consisted of 17 candidates. Subsequently, a total numbers of 13 candidates were given appointment in the post of Stenographer A chart (along with their categories) is as follows:

<i>Sl Nos.</i>	<i>Name of the candidates</i>	<i>Category</i>	<i>Merit Panel Position</i>
<i>1.</i>	<i>Ajitesh Kumar Burman</i>	<i>G</i>	<i>01</i>
<i>2.</i>	<i>Subhajit Mukherjee</i>	<i>G</i>	<i>02</i>
<i>3.</i>	<i>Koushik Mondal</i>	<i>G</i>	<i>03</i>
<i>4.</i>	<i>Nargis Sultana</i>	<i>G</i>	<i>04</i>
<i>5.</i>	<i>Suparna Boral</i>	<i>G</i>	<i>05</i>

6.	<i>Abhishek Das</i>	<i>G</i>	<i>06</i>
7.	<i>Kiran Modak</i>	<i>OBC-B</i>	<i>07</i>
8.	<i>Narottam Paul</i>	<i>OBC-B</i>	<i>08</i>
9.	<i>Abhishek Das</i>	<i>G</i>	<i>09</i>
10.	<i>Sanjib Kumar Saha</i>	<i>SC</i>	<i>10</i>
11.	<i>Sujata Mondal</i>	<i>SC</i>	<i>11</i>
12.	<i>Jhuma Kirtania</i>	<i>SC</i>	<i>12</i>
13.	<i>Rahul Bhakat</i>	<i>SC</i>	<i>13</i>

Copies of the form in the name and style as "INTERVIEW OF THE POST OF:-STENOGRAPHER" submitted by the candidates short listed, as available are annexed hereto and marked as Annexure-R/3.

09. *I say that so far as the recruitment drive in terms of the Employment Notification No. WBPDC/Recruitment/2014-2015/04 is concerned, not only the Writ Petitioner but also 02 (two) other candidates namely Sri Prasanta Jana and Sri Abhijit Naskar who got the letter for the Personal Interview also got disqualified at the time of final verification of credentials, prior to conduct of Personal Interview as well as before issuance of Pre-Employment Medical Screening due to their deficiency in fulfilling eligibility criteria, so far as short hand speed is concerned.*

It may further be submitted that in case of Sri Prasanta Jana, certificate issued by the "Ministry of Labour and Employment, Directorate General of Employment and Training" dated 12/10/2011 clearly show that his short hand speed was 80 wpm. In case of Sri Abhijit Naskar, the certificate issued

by the "Principal of Steno & Typist Institute" dated 05/06/2015 clearly show that his short hand speed was 80 wpm.

Therefore, the aforesaid 02 (two) candidates also did not match the required minimum essential qualifications for the post of "Stenographer" as per Notification No. Employment WBPDC/Recruitment/2014-2015/04.

Copies of the form in the name and style as "INTERVIEW FOR THE POST OF: STENOGRAPHER" submitted by Sri Jana and Sri Naskar are annexed here to and marked as Annexure R/4 and Annexure R/5 respectively.

10. I say that after conclusion of the said recruitment drive in terms of the Employment Notification No. in WBPDC/Recruitment/2014-2015/04, it came to light that, 02 (two) No. of posts under the category OBC-A were left vacant. It is a well-established procedure in connection with the recruitment process that the 'Reserved' category of vacancies left after filling up of the available vacancies with the selected candidates, the said unfilled vacancies are known as backlog vacancies', which are carried forward to the next recruitment process.

11. I say that the management of the Respondent No. 2 in the year 2018, issued an Office Order No. 134/2018 dated 04.07.2018 whereby the induction level post of "Stenographer" having Grade Pay of 3600/- was elevated to "Junior Personal Assistant" having Grade Pay of 3900/-.

A copy of the said Office Order No. 134/2018 dated 04.07.2018 is annexed hereto and marked as Annexure - R/6.

12. I say that in the subsequent Employment Notification bearing No. WBPDC/Recruitment/2018/09 issued in the year 2018, ten numbers (10) of vacancies for the post of "Junior Personal Assistant" had been notified by maintaining the 100-point roster of the Government of West Bengal and also considering the 'backlog vacancies' also. The identification of the vacancies are to the following effect:

UR-02,

UR (EC) – 01,

SC-02,

ST-01,

OBC (A)-01,

OBC-A (EC)-01,

OBC-B (EC)-01,

UR-PWD (Low Vision/ Blindness) – 01

<i>Sr. No.</i>	<i>Roster Point Vacancy</i>	<i>Category of Vacancy</i>
<i>1.</i>	<i>3</i>	<i>UR</i>
<i>2.</i>	<i>4</i>	<i>ST</i>
<i>3.</i>	<i>6</i>	<i>OBC(A)</i>
<i>4.</i>	<i>12</i>	<i>UR (PWD)-B/LV</i>
<i>5.</i>	<i>13</i>	<i>OBC(A)-EC</i>
<i>6.</i>	<i>16</i>	<i>UR(EC)</i>
<i>7.</i>	<i>17</i>	<i>UR</i>
<i>8.</i>	<i>18</i>	<i>SC</i>
<i>9.</i>	<i>19</i>	<i>OBC(B)-EC</i>
<i>10.</i>	<i>21</i>	<i>SC</i>

The vacancies in Sl. No. 2, 3, 4, 5, 8, 9 & 10 are backlog vacancies in different reserved categories.

13. I say that the minimum essential qualification for the post "Junior Personal Assistant" as advertised in the Employment Notification No. WBDCL/Recruitment/2018/09 is reproduced hereinafter:

Sl No.	Discipline & Scale of Pay	Vacancy	Minimum Essential Qualification
5.	Junior Personal Assistant* Pay Band of Rs. 6300-Rs.20200 with Grade Pay of Rs. 3900	10 nos.	Graduate with 50% marks in aggregate or Honours Graduate in any discipline from any University recognized by the UGC having proficiency in English language. Candidates must know operation of MS Office with minimum speed of 100 words per minute in shorthand and Computer key depression speed of 8000 per hour. Knowledge of typing in Bengali font is desirable.

Note:-*Vacancies includes backlog.

A copy of the said Employment Notification No.: WBDCL/Recruitment/2018/09 is annexed hereto and marked as Annexure-R/ 7.

14. I say that with regard to the recruitment drive of 2018, in connection with the 10 (ten) vacancies for the post of 'Junior Personal Assistant', 6 (six) numbers of candidates were empanelled and they were recruited by maintaining the 100-point roster which would be evident from the following chart:

<i>TABLE-'A'</i>						
<i>Roster Panel for 'Junior Personal Assistants'</i>						
<i>(As per 100-POINT ROSTER, followed by Govt. of WB, which is applicable to WBPDCCL)</i>						
<i>Sl No.</i>	<i>Roll No.</i>	<i>Name of the Candidates</i>	<i>Roster-wise Category</i>	<i>Actual Category</i>	<i>Roster Point No.</i>	<i>Merit Panel Position</i>
1.	20600489	Riashe Chakraborty	UR	UR	3	1
2.	----	----	ST	--	4	--
3.	20600034	Najmul Hossain	OBC-A	OBC-A	6	5
4.	---	---	UR-PWD(B/LV)	--	12	--
5.	20600046	Titon Hasan	OBC-A(EC)	OBC-A; no. OBC-A (EC) candidate found	13	6
6.	20600360	Ankur Samanta	UR(EC)	UR	16	2
7.	20600074	Santosh Pandit	UR	OBC-B; but UR on own merit	17	3

8.	---	---	SC	---	18	--
9.	20600070	Pradip Kumar Ghosh	OBC-B(EC)	OBC-B; no OBC-B(EC) candidate found	19	4
10.	---	---	SC	---	21	---

15. I say that as per the earlier recruitment process of 2014-2015, with which the Writ Petitioner was connected being a candidate under the OBC-A category, after completion of the said recruitment process there were, 2 (two) backlog vacancies' in OBC-A category and the same were carried forward to the recruitment drive of 2018. Those 2 (two) 'backlog vacancies' of OBC-A were filled up with Najmul Hossain at Sl. No. 3 of the Table (Merit Panel Position No. 5) against Roster Point No. 6 and Titon Hasan at Sl. No. 5 of the Table (Merit Panel position No. 6) against Roster Point No. 13.

16. I say that consequent upon recruitment of Najmul Hossain and Titon Hasan as mentioned above, the 02 (Two) No. backlog vacancies' under OBC-A category have been filled up. Moreover, the Writ Petitioner being an ineligible candidate cannot have a concomitant right over the said post, especially in view of the fact of initiation of the recruitment drive for the year 2018, has put an end to the earlier recruitment drive of 2014."

24. The Learned Advocate representing the Respondent nos. 2 & 3 submitted as follows:-

“C. Status of recruitment process in question:

C.1: Appointment of eligible candidates: The Answering Respondents respectfully submit that through its Affidavit-in-Opposition has already placed before this Hon'ble Court regarding the factum of recruitment of 13 (thirteen) eligible candidates. The material portions of the said Affidavit-in-Opposition are being reproduced hereinafter:

“It is to place on record that the declared vacancy as 20 against 17 numbers of candidates were empaneled. But on an ultimate analysis, it was found that 3 candidates including the petitioner did not meet the criteria as per the advertisement and therefore referred 3 No. of candidates were not considered for the recruitment process. Finally, the corporation could only recruit 13 eligible candidates from the Panel after observing the applicable reservation norms. It is fundamental that existence of vacancy does not confer a concomitant right on an ineligible candidate to get appointment in any organization.”

It is pertinent to mention that the names of said 13 (thirteen) candidates have been duly placed before this Hon'ble Court in connection with the report in the form of an Affidavit filed on behalf of the Answering Respondents in terms of the solemn direction of the Hon,ble Justice Raja Basu Chowdhury dated 12.12.2023. The chart forming part of the said report is being reproduced hereinafter:

Sl. No.	Name of candidates	Category	Merit Panel Position
1.	Ajitesh Kumar Burman	G	01
2.	Subhajit Mukherjee	G	02

3.	<i>Koushik Mondal</i>	G	03
4.	<i>Nargis Sultana</i>	G	04
5.	<i>Suparna Boral</i>	G	05
6.	<i>Abhishek Das</i>	G	06
7.	<i>Kiran Modak</i>	OBC-B	07
8.	<i>Narottam Paul</i>	OBC-B	08
9.	<i>Abhishek Das</i>	G	09
10.	<i>Sanjib Kumar Saha</i>	SC	10
11.	<i>Sujata Mondal</i>	SC	11
12.	<i>Jhuma Kirtania</i>	SC	12
13.	<i>Rahuk Bhakat</i>	SC	13

C.2: Recruitment Drive for Back-log Vacancies:- So far as the post of Stenographer is concerned, the same is no longer in existence, in fact, it has been elevated to 'Junior Personal Assistant', with the grade pay of Rs.3900/-. It is also an admitted fact that in the year 2018, the management of the Answering Respondents issued an employment notification for the post of 'Junior Personal Assistant' to fill up 10 (ten) numbers of backlog vacancies and the same was filled up by maintaining the 100 point roster of the Government of West Bengal. The details of the said recruitment also form part of the said report as aforesaid and the

same would be evident from paragraphs 12, 13, 14 and 15 of the said report.

“12. I say that in the subsequent Employment Notification bearing No. WBPDC/Recruitment/2018/09 issued in the year 2018, ten numbers (10) of vacancies for the post of "Junior Personal Assistant" had been notified by maintaining the 100-point roster of the Government of West Bengal and also considering the 'backlog vacancies' also. The identification of the vacancies are to the following effect:

UR-2,

UR (EC) – 01,

SC – 02,

ST – 01,

OBC (A) – 01,

OBC-A (EC) – 01,

OBC-B (EC) – 01,

UR – PWD (Low Vision/Blindness) – 01.

Sl. No.	Roster Point Vacancy	Category of Vacancy
1.	3	UR
2.	4	ST
3.	6	OBC (A)
4.	12	UR(PWD)-B/LV
5.	13	OBC(A)-EC
6.	16	UR(EC)
7.	17	UR

8.	18	SC
9.	19	OBC-B (EC)
10.	21	SC

The vacancies in Sl. No.2, 3, 4, 5, 8, 9 &10 are backlog vacancies in different reserved categories.

13. I say that the minimum essential qualification for the post “Junior Personal Assistant” as advertised in the Employment Notification No. WBPDC / Recruitment / 2018 / 09 is reproduced hereinafter:

<i>Sl. No.</i>	<i>Discipline & Scale of Pay</i>	<i>Vacancy</i>	<i>Minimum Essential Qualification</i>
5.	<i>Junior Personal Assistant Pay Band of Rs.6300-Rs.20200 with Grade Pay of Rs.3900</i>	10 nos.	<i>Graduate with 50% marks in aggregate or Honours Graduate in any discipline from any University recognized by the UGC having proficiency in English language. Candidates must know operation of MS Office with minimum speed of 100 words per minute in shorthand and Computer key depression speed of 8000 per hour. Knowledge of typing in Bengali font is desirable.</i>

14. I say that with regard to the recruitment drive of 2018, in connection with the 10 (ten) vacancies for the post of 'Junior Personal Assistant', 6 (six)

numbers of candidates were empanelled and they were recruited by maintaining the 100-point roster which would be evident from the following chart:

TABLE-‘A’						
Roster Panel for ‘Junior Personal Assistants’						
(As per 100-POINT ROSTER, followed by Govt. of WB, which is applicable to WBPDCCL)						
Sl. No.	Roll No.	Name of the Candidates	Roster wise category	Actual Category	Roster Point No.	Merit Panel Position
1.	20600489	Riashe Chakraborty	UR	UR	3	1
2.	----	----	ST	----	4	----
3.	20600034	Najmul Hossain	OBC-A	OBC-A	6	5
4.	----	----	UR-PWD (B/LV)	----	12	----
5.	20600046	Titon Hasan	OBC-A (EC)	No OBC-A (EC) candidate found	13	6
6.	20600360	Ankur Samanta	UR (EC)	UR	16	2
7.	20600074	Santosh Pandit	UR	OBC-B but UR on own merit	17	3
8.	----	----	SC	----	18	----

9.	20600070	Pradip Kumar Ghosh	OBC-B (EC)	OBC-B; no OBC- B(EC) candidate found	19	4
10.	----	----	SC	----	21	----

15. I say that as per the earlier recruitment process of 2014-2015, with which the Writ Petitioner was connected being a candidate under the OBC-A category, after completion of the said recruitment process there were, 2 (two) backlog vacancies' in OBC-A category and the same were carried forward to the recruitment drive of 2018. Those 2 (two) backlog vacancies' of OBC-A were filled up with Najmul Hossain at Sl. No. 3 of the Table (Merit Panel Position No. 5) against Roster Point No. 6 and Titon Hasan at Sl. No. 5 of the Table (Merit Panel position No. 6) against Roster Point No. 13.”

25. The Hon'ble Supreme Court held the following in **Sudhir Singh v. State of U.P.**¹:-

“14. Having bestowed anxious thought and consideration to the rival submissions at the Bar combined with a careful perusal of the record, we are unable to find any error in the Impugned Judgment passed by the High Court, much less any illegality, warranting our interference. It is well-settled that the basic question on eligibility has to be determined on the basis of the cut-off date/point of time which stands crystalized by the date of the advertisement itself, being the last date of submission of application forms, unless extended by the authority concerned. In the present scenario, none of the appellants can be said to have been Ex-Servicemen at the time of the advertisement in question, as, undisputedly, they were still in service. This Court has also examined the relevant rules and even the clarification(s) to the advertisement. We are afraid that they do not indicate that the appellants can be deemed Ex-Servicemen from a prospective date, despite being in actual service on the relevant

¹ 2023 SCC OnLine SC 1394

date. As such, in the case at hand at least, there is no concept of serving personnel being deemed Ex-Servicemen. It would not be proper for this Court to hold or interpret otherwise. Arguendo, if we were to venture down such a path, it would be unjust to a large number of others similarly placed as the appellants, who were not Ex-Servicemen as on the date of advertisement but came under the category later, but did not apply at the relevant time. This concern has not emanated for the first time. In *Rakesh Kumar Sharma v. State (NCT of Delhi)*, (2013) 11 SCC 58, this Court observed:

‘22. It also needs to be noted that like the present appellant there could be large number of candidates who were not eligible as per the requirement of rules/advertisement since they did not possess the required eligibility on the last date of submission of the application forms. Granting any benefit to the appellant would be violative of the doctrine of equality, a backbone of the fundamental rights under our Constitution. A large number of such candidates may not have applied considering themselves to be ineligible adhering to the statutory rules and the terms of the advertisement.’

(emphasis supplied)

15. This Court would pause to state that the position discussed in the preceding paragraph is logical on the simple premise that even if a certification is given to a person indicating a prospective date till when he would be in employment, circumstances could intercede between the date of such certificate and the prospective date of retirement/resignation/relieving indicated therein. Illustratively, if for any reason there is a proceeding/charge pending against the person(s) concerned and/or there are circumstances for which the person cannot be relieved from his post till conclusion of such proceedings or otherwise, such date indicated in the certificate cannot be taken as the date of being finally and actually relieved from service. However, in the instant situation, such date is also prospective and much later to the date on which the applications were invited and even till the last date of submission of the application forms. Thus, on this count alone, the appellants’ claim of a right to consideration under the Ex-Servicemen category fails.

16. In *Rakesh Kumar Sharma (supra)*, this Court, after noticing, inter alia, *Dr M V Nair v. Union of India*, (1993) 2 SCC 429; *Uttar Pradesh Public Service Commission v. Alpana*, (1994) 2 SCC 723; *Bhupinderpal Singh v. State of Punjab*, (2000) 5 SCC 262, and; *State of Gujarat v. Arvindkumar T Tiwari*, (2012) 9 SCC

545 reiterated that basic qualification is to be adjudged as on the last date of submission of application forms, subject to any extension of such date by the concerned authority. In *Rekha Chaturvedi (Smt.) v. University of Rajasthan*, 1993 Supp (3) SCC 168³, the proposition was enunciated as under:

‘10. The contention that the required qualifications of the candidates should be examined with reference to the date of selection and not with reference to the last date for making applications has only to be stated to be rejected. The date of selection is invariably uncertain. In the absence of knowledge of such date the candidates who apply for the posts would be unable to state whether they are qualified for the posts in question or not, if they are yet to acquire the qualifications. Unless the advertisement mentions a fixed date with reference to which the qualifications are to be judged, whether the said date is of selection or otherwise, it would not be possible for the candidates who do not possess the requisite qualifications in praesenti even to make applications for the posts. The uncertainty of the date may also lead to a contrary consequence, viz., even those candidates who do not have the qualifications in praesenti and are likely to acquire them at an uncertain future date, may apply for the posts thus swelling the number of applications. But a still worse consequence may follow, in that it may leave open a scope for malpractices. The date of selection may be so fixed or manipulated as to entertain some applicants and reject others, arbitrarily. Hence, in the absence of a fixed date indicated in the advertisement/notification inviting applications with reference to which the requisite qualifications should be judged, the only certain date for the scrutiny of the qualifications will be the last date for making the applications. ...’

(emphasis supplied)

17. The Court, vide its judgment in *State of Bihar v. Madhu Kant Ranjan*, 2021 SCC OnLine SC 1262, also took the view that ‘As per the settled proposition of law, a candidate/applicant has to comply with all the conditions/eligibility criteria as per the advertisement before the cut-off date mentioned therein unless extended by the recruiting authority.

18. In the above analysis, though the Court is not required to go into the question of equivalence apropos the C.C.C. Certificate, but since contentions thereon were argued, we may reiterate that the advertisement clearly specified the essential qualification was a C.C.C. Certificate. The appellants despite opportunity to appear to

show such equivalence, having failed to do so, nothing survives on this count.”

26. In **State of Bihar v. Madhu Kant Ranjan**,², the following was held by the

Hon’ble Supreme Court:-

“11. As per the settled proposition of law, a candidate/applicant has to comply with all the conditions/eligibility criteria as per the advertisement before the cut-off date mentioned therein unless extended by the recruiting authority. Also, only those documents, which are submitted along with the application form, which are required to be submitted as per the advertisement have to be considered. Therefore, when Respondent 1 — original writ petitioner did not produce the photocopy of the NCC ‘B’ certificate along with the original application as per the advertisement and the same was submitted after a period of three years from the cut-off date and that too after the physical test, he was not entitled to the additional five marks of the NCC ‘B’ certificate. In these circumstances, the Division Bench of the High Court has erred in directing the appellants to appoint Respondent 1 — original writ petitioner on the post of Constable considering the select list dated 8-9-2007 and allotting five additional marks of NCC ‘B’ certificate.”

27. The Hon’ble Supreme Court held the following in **Maharashtra Public**

Service Commission v. Sandeep Shriram Warade³:-

“9. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on a par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to

² (2021) 17 SCC 141

³ (2019) 6 SCC 362

proceed in accordance with law. In no case can the court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same.

10. *The fact that an expert committee may have been constituted and which examined the documents before calling the candidates for interview cannot operate as an estoppel against the clear terms of the advertisement to render an ineligible candidate eligible for appointment.*

14. *The view taken by the Tribunal finds approval in Deptt. of Health & Family Welfare v. Anita Puri [Deptt. of Health & Family Welfare v. Anita Puri, (1996) 6 SCC 282 : 1996 SCC (L&S) 1491] , observing as follows: (SCC pp. 285-86, para 7)*

“7. Admittedly, in the advertisement which was published calling for applications from the candidates for the posts of Dental Officer it was clearly stipulated that the minimum qualification for the post is BDS. It was also stipulated that preference should be given for higher dental qualification. There is also no dispute that MDS is a higher qualification than the minimum qualification required for the post and Respondent 1 was having that degree. The question then arises is whether a person holding a MDS qualification is entitled to be selected and appointed as of right by virtue of the aforesaid advertisement conferring preference for higher qualification? The answer to the aforesaid question must be in the negative. When an advertisement stipulates a particular qualification as the minimum qualification for the post and further stipulates that preference should be given for higher qualification, the only meaning it conveys is that some additional weightage has to be given to the higher qualified candidates. But by no stretch of imagination it can be construed to mean that a higher qualified person automatically is entitled to be selected and appointed. ... In this view of the matter, the High Court in our considered opinion was wholly in error in holding that a MDS qualified person like Respondent 1 was entitled to be selected and appointed when the Government indicated in the advertisement that higher qualification person would get some preference. The said conclusion of the High Court [Anita Puri v. Deptt. of Health & Family Welfare, 1993 SCC OnLine P&H 1462 : (1994) 1 SLR 656] , therefore, is wholly unsustainable and must be reversed.”

28. The Following was held by the Hon'ble Supreme Court in **Nutan Kumari v.**

B.R.A. Bihar University⁴:-

"9. It has been time and again held in judicial verdicts that the selection process is bound by the terms and conditions of an advertisement inviting applications from eligible candidates. Unless it can be demonstrated that an advertisement has been issued contrary to any Statute or the applicable rules, it is binding on all the participants to the point that not even the Selection Committee has the jurisdiction to lay down a separate yardstick or basis for selection as that would be tantamount to legislating rules of selection. It is equally well settled that once the process of selection commences, the criteria prescribed in the advertisement for conducting the selection of the eligible candidates cannot be altered. There is sound logic behind the same which is that if the selection criteria is tinkered with in midstream, say for example by lowering the standards, a party can have a legitimate grievance that had it known that the criteria would be reduced subsequently, it too could have applied for the said post.

20. To elucidate the point above, we may usefully refer to the decision in Dr. Krushna Chandra Sahu v. State of Orissa⁸ where it has been held thus:

"31. Now, power to make rules regulating the conditions of service of persons appointed on Government posts is available to the Governor of the State under the proviso to Article 309 and it was in exercise of this power that the present rules were made. If the statutory rules, in a given case, have not been made, either by Parliament or the State Legislature, or, for that matter, by the Governor of the State, it would be open to the appropriate Government (the Central Government under Article 73 and the State Government under Article 162) to issue executive instructions. However, if the rules have been made but they are silent on any subject or point in issue, the omission can be supplied and the rules can be supplemented by executive instructions (See : Sant Ram Sharma v. State of Rajasthan [AIR 1967 SC 1910 : (1968) 1 SCR 111 : (1968) 2 LLJ 830].)

32. In the instant case, the Government did neither issue any administrative instruction nor did it supply the omission with regard to the criteria on the basis of which suitability of the candidates was

⁴ 2023 SCC OnLine SC 1408

to be determined. The members of the Selection Board, of their own, decided to adopt the confidential character rolls of the candidates who were already employed as Homoeopathic Medical Officers, as the basis for determining their suitability.

33. The members of the Selection Board or for that matter, any other Selection Committee, do not have the jurisdiction to lay down the criteria for selection unless they are authorised specifically in that regard by the Rules made under Article 309.....”

[Emphasis added]

(Also refer : B.S. Yadav v. State of Haryana⁹; P.K. Ramachandra Iyer v. Union of India¹⁰; Umesh Chandra Shukla v. Union of India¹¹; and Durgacharan Misra v. State of Orissa¹²)

21. In Bedanga Talukdar v. Saifudaullah Khan¹³, this Court highlighted the fact that any power of relaxation of the stipulated selection procedure ought to be mentioned in the advertisement in the following words:—

“29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.

30. A perusal of the advertisement in this case will clearly show that there was no power of relaxation. In our opinion, the High Court committed an error in directing that the condition with regard to the

submission of the disability certificate either along with the application form or before appearing in the preliminary examination could be relaxed in the case of Respondent 1. Such a course would not be permissible as it would violate the mandate of Articles 14 and 16 of the Constitution of India.”

[Emphasis added]

(Also refer : Krishna Rai v. Banaras Hindu University¹⁴)

22. It is also a part of settled service jurisprudence that merely by applying for a post pursuant to an advertisement, a candidate does not automatically acquire any vested right of selection. He only acquires a right for being considered for selection strictly in accordance with the extant rules. This Court has held in N.T. Devin Katti v. Karnataka Public Service Commission¹⁵ as follows:

“11. There is yet another aspect of the question. Where advertisement is issued inviting applications for direct recruitment to a category of posts, and the advertisement expressly states that selection shall be made in accordance with the existing rules or government orders, and if it further indicates the extent of reservations in favour of various categories, the selection of candidates in such a case must be made in accordance with the then existing rules and government orders. Candidates who apply, and undergo written or viva voce test acquire vested right for being considered for selection in accordance with the terms and conditions contained in the advertisement, unless the advertisement itself indicates a contrary intention. Generally, a candidate has right to be considered in accordance with the terms and conditions set out in the advertisement as his right crystallizes on the date of publication of advertisement, however he has no absolute right in the matter. If the recruitment Rules are amended retrospectively during the pendency of selection, in that event selection must be held in accordance with the amended Rules. Whether the Rules have retrospective effect or not, primarily depends upon the language of the Rules and its construction to ascertain the legislative intent. The legislative intent is ascertained either by express provision or by necessary implication; if the amended Rules are not retrospective in nature the selection must be regulated in accordance with the rules and orders which were in force on the date of advertisement. Determination of this question largely depends on the facts of each case having regard to the terms and conditions set out in the advertisement and the relevant rules and orders. Lest there be any confusion, we would like to make it clear that a candidate on making

application for a post pursuant to an advertisement does not acquire any vested right of selection, but if he is eligible and is otherwise qualified in accordance with the relevant rules and the terms contained in the advertisement, he does acquire a vested right of being considered for selection in accordance with the rules as they existed on the date of advertisement. He cannot be deprived of that limited right on the amendment of rules during the pendency of selection unless the amended rules are retrospective in nature.”

[Emphasis added]

(Also refer : Sureshkumar Lalitkumar Patel v. State of Gujarat¹⁶)

23. Further, once an advertisement has been issued and the selection criteria prescribed, there is little scope for relaxing the norms, more so, by the Selection Committee unless and until it can be adequately demonstrated that it had the power to do so. We may allude to a decision of this Court in Secretary, A.P. Public Service Commission and B. Swapna¹⁷ which highlights the adverse consequences of interfering with the criteria of selection laid down under the rules in the following words:

“14. The High Court has committed an error in holding that the amended rule was operative. As has been fairly conceded by learned counsel for Respondent 1 applicant it was the unamended rule which was applicable. Once a process of selection starts, the prescribed selection criteria cannot be changed. The logic behind the same is based on fair play. A person who did not apply because a certain criterion e.g. minimum percentage of marks can make a legitimate grievance, in case the same is lowered, that he could have applied because he possessed the said percentage. Rules regarding qualification for appointment if amended during continuance of the process of selection do not affect the same. That is because every statute or statutory rule is prospective unless it is expressly or by necessary implication made to have retrospective effect. Unless there are words in the statute or in the rules showing the intention to affect existing rights the rule must be held to be prospective. If the rule is expressed in a language which is fairly capable of either interpretation it ought to be considered as prospective only. (See P. Mahendran v. State of Karnataka [(1990) 1 SCC 411 : 1990 SCC (L&S) 163 : (1990) 12 ATC 727] and Gopal Krishna Rath v. M.A.A. Baig [(1999) 1 SCC 544 : 1999 SCC (L&S) 325].)

15. Another aspect which this Court has highlighted is scope for relaxation of norms. Although the Court must look with respect upon the performance of duties by experts in the respective fields, it

cannot abdicate its functions of ushering in a society based on rule of law. Once it is most satisfactorily established that the Selection Committee did not have the power to relax essential qualification, the entire process of selection so far as the selected candidate is concerned gets vitiated. In *P.K. Ramachandra Iyer v. Union of India* [(1984) 2 SCC 141 : 1984 SCC (L&S) 214] this Court held that once it is established that there is no power to relax essential qualification, the entire process of selection of the candidate was in contravention of the established norms prescribed by advertisement. The power to relax must be clearly spelt out and cannot otherwise be exercised.”

[Emphasis added]

29. The following was observed by the High Court at Orissa in **Santanu Kumar**

***Budhia v. State of Odisha*⁵:-**

“11. The selection made by an authority for appointment is not ordinarily open to judicial scrutiny because whether a candidate is fit for a particular post or not, has to be decided by the duly constituted Appointing Authority/Selection Committee which has the expertise on the subject. Since it lacks the expertise, it is not the function of the Court to hear appeals over the decisions of Selection Committees and to scrutinize the relative merits of candidates.

12. Inclusion of the name of a candidate in the merit/select list is at best a condition of eligibility for the purpose of appointment. A candidate in the merit/select, list though has no vested right to be appointed, he has a right to be considered for appointment and the State does not have the license of acting in an arbitrary manner. The appointing authority can neither ignore the list nor decline to make appointment on his whims.

13. In the case of *Commissioner of Police v. Umesh Kumar*¹, the Supreme Court was presented with a situation where the candidates had participated in the selection process to the 2013 batch of Constables (Executive) - Male in Delhi Police. They were declared to have been successful in the first result. The results were revised later and they were ousted. The candidates approached the Central Administrative Tribunal which dismissed their OA. This order was further challenged before the Delhi High Court, which directed to allow for their appointment. In the consequent appeal, the Supreme Court held that High Court manifestly erred in issuing the writ of

⁵ 2022 SCC OnLine Ori 2454

mandamus to the appellants to appoint the respondents as mere inclusion of candidate in a selection list does not confer a vested right to appointment. The recruitment process was yet to be completed and no candidate can be given an undeserved advantage over others by application of an erroneous key.

14. *In the case of Punjab SEB v. Malkiat Singh², the Supreme Court held that the mere inclusion of candidate in a selection list does not confer upon them a vested right to appointment. The Court held:*

“4. ...the High Court committed an error in proceeding on the basis that the respondent had got a vested right for appointment and that could not have been taken away by the subsequent change in the policy. It is settled law that mere inclusion of name of a candidate in the select list does not confer on such candidate any vested right to get an order of appointment. This position is made clear in para 7 of the Constitution Bench judgment of this Court in Shankarsan Dash v. Union of India³”

15. *The Supreme Court in the case of State of Orissa v. Rajkishore Nanda⁴ observed hereasunder:*

“A person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for purpose of appointment and by itself does not amount to selection or create a vested right to be appointed. The vacancies have to be filled up as per the statutory rules and in conformity with the constitutional mandate.”

30. In the framework of constitutional governance, public employment is not a matter of benevolence or discretion, but of structured procedure grounded in statutory rules and constitutional guarantees. The advertisement for recruitment cannot be treated casually devoid of legal binding and effectivity. It is indubitably a binding charter that determines the contours of eligibility, the metrics of merit, eligibility, capability both in theory and practical sense wherever specially required to be adhered and catered to for the satisfactory procedural gateways to consideration.

31. In the present case, the petitioner if at all possessed a better certificate should have produced it at the first instance in connection with his skill withholding the same from disclosure at the necessitated and prescribed time.
32. The petitioner evidently did not supply the mandatory documents as required by the advertisement as stated above. The requirement to furnish such document was not a mere formality but a threshold requirement, barring which the claim to consideration would not have matured into a vested right. No individual, however capable and meritorious otherwise can evade a condition explicitly stipulated by the appointing authority under lawful competence. To seek judicial protection despite non-compliance with a material procedural obligation is to shake the edifice and undermines the authority of fair and transparent selection process. The Court cannot and shall not encourage any violation of provisions of an advertisement for employment overriding the institutional precedence, gravity, honour, independence and legal sanctity. Any intrusion by the Court would disintegrate, distort and impair the administrative supremacy of an institution.
33. The report filed in the form of an affidavit as stated above conspicuously reflected, if at all the petitioner's marks were considered through interview, he ultimately could not have secured the post for obtaining lesser marks than others as delineated therein. He failed to secure the marks to be eligible for consideration even if his non-production of required certificate was considered at all.

34. The role of the constitutional court in public employment is supervisory not substitutive and authoritative to dominate. The court is to examine whether the selection process is fair, transparent, unbiased and in accordance with law. It is not to enter into individual suitability unless arbitrariness, mala fide or violation of fundamental rights clearly demonstrated.
35. The facts on record indicate that the candidate was excluded not due to any extraneous reason but due to self-induced deficiency, i.e., the failure to furnish requisite documents. No mala fide intent or procedural bias had been pleaded, and/or established. The respondents had reserved the rights to reject the candidature at any time on detection of non-compliance of the provisions mandated in the advertisement, which had been rightly exercised, since in the matters involving public employment, the selection process must strictly conform to the eligibility criteria and procedural safeguards. The Court cannot under the guise equity, benevolence or compassion, reconstitute, alter or modify the terms of the advertisement nor compel the appointing authority to re-evaluate an ineligible or unsuccessful candidate.
36. Moreover in the instant case, through subsequent advertisement in the year as stated above the entire vacancy had been filled and the purpose subserved. The petitioner for reasons known best to him did not avail of the opportunity to compete and contrarily claimed to be appointed in the panel which exhausted after the expiry of one year.
37. Where a candidate has failed to fulfil the dual criteria of eligibility and performance based merit objectively as explicit on the records through the report replicated above, the invocation of Constitutional Writ Jurisdiction

under Article 226 of the Constitution of India becomes untenable. Absence of documents and failure to secure marks to compete in the selection list constitute objective disqualifications and not curable technical defects. In such circumstances, this Court finds no ground to interfere with the autonomous and rule bound decision of the selection authority.

38. In view of the above discussions and the decisions of the Hon'ble Court, the instant writ petition being W.P.A. 11639 of 2016 is dismissed.

39. There is no order as to costs.

40. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)