

**IN THE HIGH COURT AT CALCUTTA
(Civil Appellate Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

WP.ST 159 of 2024

Naushad Ahmed Ansari

Vs

State of West Bengal & Ors.

For the Petitioner : Mr. Biswarup Biswas
 Ms. Sonali Das
 Ms. Sreetoma Neogi

For the State: Mr. Tapan Kumar Mukherjee
 Ms. Tuli Sinha

For the PSC: Ms. Shraboni Sarkar

Heard On : 08.11.2024

Judgement Delivered On : 07.02.2025

Supratim Bhattacharya, J.:

1. The present writ petition has been preferred challenging, *inter alia* , an order passed by the West Bengal Administrative Tribunal (for short the Tribunal) dated 07.05.2024 in the Original Application (in short O.A.) being O.A. 217 of 2020. Through the said order the Ld. Tribunal has stated that the prayer made in the said O.A. is no more relevant and has thus disposed the said application.
2. Shorn of unnecessary details the fact of the instant *lis* is that the petitioner had applied for appearing in the West Bengal Subordinate

Forest Service Examination 2018 (for short the WBSFS examination). The Public Service Commission, West Bengal (for short the Commission) through the Advertisement No. 14/2018 had published seeking applications from the candidates who were eager for the said post. The petitioner applied for the WBSFS and had been successful in the preliminary examination and the main examination. He was requested to appear before the Commission for personality test for WBSFS on 22.01.2020, but the petitioner was ultimately not allowed to appear in the interview on the ground that he had a degree in the Branch-Information Technology instead of the requisite Bachelors degree in Science or Engineering which had been prescribed in the said advertisement. Being unable to appear for the said personality test, the petitioner preferred the said O.A. before the Tribunal.

3. After hearing the Ld. Counsel representing the petitioners in the said O.A. the Ld. Tribunal has been pleased to pass the following order on 07.05.2024:

“... Mr. Mondal submits that on the basis of recommendation of the Commission, appointment letter to all the recommended candidates have already been issued. Both Mr. Byhattacharjee and Mr. Mondal submit that in view of the above facts narrated, the prayer in this application has now become infructuous.

From the above submission, the Tribunal finds that the prayer is no more relevant and therefore, this application is infructuous.

Accordingly, this application is disposed of.”

4. Through the present writ petition the petitioner has prayed for the following:

(a) A writ of Mandamus commanding the respondents, their men, agents, servants, subordinates, employees and/or assignee and /or authorities to perform their statutory duties to hold a fresh interview there by allowing the petitioners to participate in the said interview treating the petitioners as eligible candidates and consequently recasting the panel;

(b) A writ of or in the nature of Mandamus commanding the respondents, their men, agents, servants, subordinates, employees and /or assignee and/or authorities to issue appointment letter upon recasting the panel forth with;

5. Mr. Biswas, Ld. Advocate being assisted by Ms. Sonali Das and Ms. Sreetoma Neogi representing the petitioner has submitted the following:

i) That without going into the intricacies of the matter the said Commission has not allowed the petitioner to appear before the Board which was conducting the personality test.

ii) He has further submitted that the petitioner had/has a degree in Bachelor for Branch-Information Technology issued by the West Bengal University of Technology as the petitioner had appeared before the said University through the Aryabhatta Institute of Engineering and Management wherefrom the petitioner had pursued his course of Information Technology and has passed the said course in the year 2008.

iii) The Ld. Counsel has also brought to the notice of the Court a certificate dated 14.02.2020 issued by the head of Department and Teacher-in-Charge, Officer-in-Charge of the said institute certifying that Computer Science/ Computer Engineering and Information Technology syllabus and course structure are same in their institute and there is no difference between Computer Science/ Computer Engineering and Information Technology.

iv) He further reiterated that in spite of possessing bachelors degree in Information Technology which is equivalent to Computer Science which has been specifically mentioned under the heading qualification which is the criteria for a candidate to be eligible to appear in the said examination, as has been laid down in the said advertisement, the petitioner has not been permitted to appear in the personality test which is gross violation of the provisions laid down under the law. In this regard the Ld. Counsel has placed an interim order passed by the self same Tribunal dated 14.02.2020 passed in the case No. OA 108 of 2020 in the case between Shri Kailashpati Mondal Vs. the State of West Bengal and Others and has stressed upon the point that the Tribunal in the said case had directed the Commission and its secretary to allow the applicant to participate in the interview on the contrary in the case of the petitioner, has not been permitted to appear in the interview which is nothing but discrimination in the eye of law and violation of the provisions of the Constitution. In this regard, the Ld. Counsel has placed Article 14 and Article 16 of the Constitution of India.

v) The Ld. Counsel has submitted that the right of the petitioner cannot be taken away for no fault of his as such the petitioner is entitled to be appointed and the appointment would be prospective. In this regard the Ld. Counsel has referred to the judgment passed by the Hon'ble Apex Court in the case between Purushottam Vs. Chairman M.N.E.B. and another published in 1999 0 Supreme (SC) 642. Relying upon the said judgment the Ld. Counsel has prayed for appointment of the petitioner to the post for which he had applied. He has also relied upon a judgment passed by a coordinate bench of this Court in the case between Tamal Mondal Vs. State of West Bengal.

Banking upon the aforesaid facts and circumstances the Ld. Counsel has prayed for appointing the petitioner in the post of WBSFS.

6. *Per contra*, Mr. Mukherjee Ld. Additional Government Pleader being assisted by Ms. Tuli Sinha representing the State during the exhaustive argument has submitted the following:

i) The petitioner did not possess the prescribed qualification as has been mentioned in the advertisement which is the basis for the examination.

ii) He has further submitted that the branch of education which has been pursued by the petitioner is Information Technology and the said Information Technology is not a degree which is sought for through the qualification which has been laid in the advertisement.

iii) The Ld. Counsel has stressed upon the issue that through the advertisement bachelors degree in science or engineering from any recognized university or institute was sought as follows:

“Bachelors degree in Science or Engineering of any recognized Indian University or Institute with at least one of the following subjects: Agriculture, Botany, Chemistry, Computer Application, Computer Science, Engineering (Agriculture, Chemical , Civil, Computer, Electrical, Electronics, Mechanical), Forestry, Geology, Horticulture, Mathematics, Physics, Statistics, Veterinary Science, Zoology and Environmental Science.”

He has stressed upon the point that degree in Branch Information Technology is not one of the subjects within the ambit of the requisite qualification as has been laid down in the said advertisement. The petitioner thus does not possess the requisite qualification for the said post, hence the petitioner was not permitted to appear for the personality test.

- 7.** The Ld. Counsel, Ms. Shraboni Sarkar representing the Commission has argued on the line of the Ld. Counsel representing the State and has submitted that bachelor in Information Technology has not been laid as a qualification for being eligible to appear in the examination for the post of WBSFS. Ld. Counsel has submitted that the steps taken by the Commission is not against the provision of law.
- 8.** The Commission has not permitted the petitioner to appear in the personality test in spite of the petitioner having a bachelors degree in Information Technology and according to the Commission the said

degree in Information Technology does not fall within the ambit of bachelors degree in Computer science.

9. From the contentions of the Ld. Counsels it is apparent that the moot point involved in the present lis is as to whether the petitioner who has a bachelors degree in Information Technology is eligible to appear for the said post of WBSFS.

10. The petitioner has preferred this judicial review having the hope and desire that he will be eligible to appear for the WBSFS examination.

11. In the advertisement being advertisement No. 14/2018 issued by the Commission for the West Bengal forest Service and West Bengal subordinate forest service examination, 2018, under the heading Qualification the following have been laid down for West Bengal subordinate Forest service

“Bachelors degree in Science or Engineering of any recognized Indian University or Institute with at least one of the following subjects: Agriculture, Botany, Chemistry, Computer Application, Computer Science, Engineering (Agriculture, Chemical , Civil, Computer, Electrical, Electronics, Mechanical), Forestry, Geology, Horticulture, Mathematics, Physics, Statistics, Veterinary Science, Zoology and Environmental Science.”

The petitioner has claimed to have obtained B-Tech degree from the West Bengal University of Technology in the branch of Information & Technology.

Under the heading qualifications as laid down in the said advertisement for the post of WBSFS, Information & Technology has nowhere been mentioned.

This being the factual aspect this Court in judicial review cannot enlarge its scope.

- 12.** The petitioner has claimed to possess the qualification of a Bachelor's Degree in the branch Information Technology. The advertisement on the other hand, specifies a Bachelor's Degree in "Science" or "Engineering" of any recognized Indian University or institute comprising of various subjects which have been specified in the advertisement. The petitioner does not possess a Bachelor's Degree in "Science" or "Engineering". In this context, the certificate of equivalence which has been produced by the petitioner issued by the Head of the Department and Teacher-in-Charge would be of no assistance to the petitioner's candidature. It is only if the petitioner possessed a Bachelor's Degree in "Science" or "Engineering" that the occasion may have arisen to see whether the degree was with at least one of the subjects specified in the advertisement. It is not the petitioner's case that he was having Bachelor's Degree in "Science" or "Engineering". Thus, the petitioner was disqualified for want of the requisite educational qualification. The law is trite in this regard. Once

the advertisement specifies requisite qualification there is no scope for deviating from the same.

13. The certification of equivalence given by the petitioner also does not merit any consideration since the petitioner does not possess the requisite qualification of Bachelor's degree in Science or Engineering as a whole, there is no scope for the petitioner to contend that his Bachelor's degree of Information Technology included any one of the branches specified in the advertisement.

14. In this regard, our conclusion is inspired and fortified by the decision of the Apex Court in the case of **Indresh Kumar Mishra and Others vs. State of Jharkhand and Others** reported in **(2022) 12 SCC 42**.

In this context this Court refers to Paragraphs No. 16 and 21 of the said judgment:

“ ...16. We have gone through the degrees/certificates in the case of the respective writ petitioners. It appears that the respective writ petitioners have obtained the postgraduate degrees/Bachelor degrees, as the case may be, in one of the branches of History, namely, Indian Ancient History, Indian Ancient History and Culture, Medieval/Modern History, Indian Ancient History, Culture and Archaeology. In our view, obtaining the degree in one of the branches of History cannot be said to be obtaining the degree in History as a whole. As a History teacher, he/she has to teach in all the subjects of History, namely, Ancient History, Indian Ancient History and Culture, Medieval/Modern History, Indian Ancient History, Culture and Archaeology, etc. Therefore, having studied and obtaining the degree in only one branch of History cannot be

said to be having a degree in History subject as a whole, which was the requirement. All the relevant aspects have been considered and gone into in detail by the learned Single Judge meticulously.. ...

... 21. In the present case, the educational qualifications required have been specifically mentioned in the advertisement. There is no ambiguity and/or confusion in the advertisement providing educational qualification and the post for which the applications were invited (History/Civics). There cannot be any deviation from the educational qualifications mentioned in the advertisement. Once having found that the respective writ petitioners appellants herein were not having the requisite qualification as per the advertisement, namely, the postgraduate/Bachelor degree in History, which was the requirement as per the advertisement and thereafter their candidature was cancelled, both the learned Single Judge as well as the Division Bench of the High Court have rightly refused to interfere with the same. We are in complete agreement with the view taken by the learned Single Judge and the Division Bench of the High Court..”

15. It has also been noticed by the Tribunal that by the time the petitioner moved the Tribunal the appointment process was complete. In view of discussion and consideration above we are of the opinion that the order dated 07.05.2024 passed in O.A. 217 of 2020 by the Ld. Tribunal does not require any interference by this Court under Article 226 of the Constitution of India.

16. This being the position this Court finds no reason to interfere with the order of the Ld. Tribunal.

17. As such **WP.ST 159 of 2024** stands **dismissed** without any cost.
18. Parties shall be entitled to act on the basis of the server copy of the judgment and order placed on the official website of the Court.
19. Urgent certified photo copies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

I Agree,

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)