

03.01.2025
(D/L-3)
Ct. No.4
(Naba)

W.P.S.T. 206 of 2024

Abul Hasan Mondal
Vs.
The State of West Bengal & Ors.

Md. Salahuddin,
Md. Raziuddin

...for the Petitioner

Ms. Sonal Sinha
Mr. Amritalal Chatterjee

...for the State

1. The petitioner was an applicant in a process of recruitment for the post of librarian under the Director of Health Services, Government of West Bengal. The Advertisement No. R/Lib.-20/72(1)/2019 was issued in this regard fixing the time for submission of online applications between 14.09.2019 to 21.09.2019 (before 8 p.m.). The essential qualifications prescribed in respect of the post of librarian for which the petitioner is an applicant, was a Master's Degree in any Discipline with Diploma in Library Science from any recognised University. The petitioner claims to have possessed the said qualification and he is aggrieved by the fact that he has not been awarded marks for the said qualification and therefore, has been excluded in the selection process. It is his submission that he possessed

the qualification (Master's Degree), and only the certification in respect thereof was not available to the petitioner on the date of application. This deficiency did not strike at the root of the petitioner's eligibility in the recruitment process. The advertisement did not specify the requirement of submission of such certificate mandatorily at the time of making application. He submits that the fact that he was qualified and had passed the Master's Degree is not in dispute. That being the fact, there is no occasion for the authorities not to consider his candidature and not to award marks for his post-graduate qualification under the category "marks obtained in MLIS". Under this criteria the maximum marks was 10 (ten) and the petitioner has been awarded zero marks merely because he did not possess the certificate. Such denial of marks is unsustainable as per the learned counsel for the petitioner.

2. Another aspect of the matter which has been argued is the grant of insufficient marks under the criteria "Professional Experience". In this category the petitioner has been awarded 7 (seven) marks and the maximum marks under this category is 15 (fifteen).
3. It is submitted by the learned counsel for the petitioner that the petitioner served as a Data

Entry Operator in a Panchayat and a certification in this regard was given for eight years. Still he has been awarded only 7 (seven) marks. It is submitted that considering the vast experience held by the petitioner, he ought to have been awarded at least 11 (eleven) marks.

4. The learned counsel for the State on the other hand submits that the requirement of possessing of certificate in support of the petitioner's claimed qualification of Master's Degree was mandatory in terms of the advertisement. The certificate was required to be of a date prior to the "closing date" for submission of applications under the advertisement which is obvious from a plain reading of the advertisement wherein it is stated as follows:

"Candidates must fulfil the essential qualification by the closing date."

5. It is submitted that the requirement of possessing the certificate was mandatory is further evident from the fact that the candidates were awarded marks on eight criteria in the process of selection. The breakup of the total 100 marks also contained a criteria for award of marks for post-graduate degree under the heading "marks obtained in "MLIS". The petitioner has not been granted marks under the said category as has been done

in the case of all other candidates similarly situated as the petitioner.

6. The recruitment was conducted so as to prepare a select list based on award of marks total 100 under eight different categories uniformly applied to all the candidates. The petitioner cannot seek any exception in the matter. The further submission is that even if for the sake of argument, the petitioner was to be awarded full 10 marks under "MLIS" then he would not be declared a selected candidate since the cut off marks under the petitioner's category [OBC(A)] was 77.62. The petitioner has been awarded total 60.72 marks which was communicated to him in response to his application made under RTI (Annexure P11). Adding of 10 marks to 60.72, at best would result in petitioner securing 70.72 marks, which still would be short of the cut off marks in his category (77.60 marks). Insofar as the marks claimed under the heading "Experience", it is submitted that the vague assertion made by the petitioner is unsustainable. The petitioner has not shown as to how he has been deprived of any due marks under the heading "Experience".
7. The learned counsel for the State has also relied upon the decision of a coordinate Bench of this

Court reported in **2016 SCC OnLine Cal 12252**.

It is submitted that in paragraph 32 of the said Judgment this Court has held that the petitioner therein could not claim the benefit of two additional increments from the date on which such provisional certificate was issued to him. The benefit of additional increments was held admissible to the petitioner only from the date of acquiring the Phd. Degree and not prior thereto. Under similar circumstances, this Court should also not allow the petitioner to claim any benefit of the Master's Degree, which admittedly was not possessed on the closing date.

8. We have considered the rival submissions and gone through the advertisement. The facts lie a narrow compass which are not in dispute. The petitioner had participated in the selection process. It is also admitted that he has passed the Master's examination prior to his application for the recruitment process. It is also an admitted position that on the closing date he did not possess the requisite certificate in support of the Master's Degree. The fact of the petitioner possessing the qualification therefore is not in dispute. What is in dispute is the certification of such qualification which according to the learned State counsel was mandatory in terms of the

advertisement to be acquired prior to the closing date. The fact that the petitioner has not been awarded any marks under this category is also not in dispute.

9. We, therefore, are required to see whether the non-possession of a certificate could have been made the basis to disentitle the petitioner to considerations in the selection process with reference to the Judgment cited by the learned State counsel. But before that, we are faced with a unique circumstance that even if the petitioner was to be awarded full 10 marks under the criteria of possessing a Master's Degree, he would at best secure a total of 70.72 marks. The same would still be far short of the cut off marks which in the present case is not disputed to be 77.62 under the category OBC(A) applicable to the petitioner.
10. Insofar as the other aspect regarding the petitioner being awarded insufficient marks under the professional experience criteria, we find that apart from a mere self-serving assertion that the marks are insufficient keeping in background the vast experience of the petitioner, there is no submission with reference to any details as to how and for what reason the marks awarded under this category is insufficient.

11. We find from the advertisement that the distribution of marks for experience has been laid down so as to avoid arbitrary award of marks under this category. The marks distribution is specified in the advertisement is as follows:

Institutes	Teaching in LIS/Librarian/Ass t. Librarian/Library in-charge	Library Asstt./Library Trainee/Project Leader	Project Asstt./Date Entry Operator/Databas e Maintain
IIT/Research/ University/ College/ School(High)/ National/State / Dist./Town/ Sub-Div.	Govt./Govt-sponsored (Permanent)=3 Govt./Govt-sponsored (Contract/Casual/ Temporary/ Consolidate Pay) =2.5 Private/Non-Govt.=2	Govt./Govt-sponsored (Permanent)=2 Govt./Govt-sponsored (Contract/Casual/ Temporary/ Consolidate Pay) =1.5 Private/Non-Govt.=1	Govt./Govt-sponsored (Permanent)=2 Govt./Govt-sponsored (Contract/Casual/ Temporary/ Consolidate Pay) =1 Private/Non-Govt.=0.5
Junior High/ Primary School/ Rural/Primary Unit/Society/ Trustee	Govt./Govt-sponsored (Permanent)=2 Govt./Govt-sponsored (Contract/Casual/ Temporary/ Consolidate Pay) =1.5 Private/Non-Govt.=1.5	Govt./Govt-sponsored (Permanent)=1.5 Govt./Govt-sponsored (Contract/Casual/ Temporary/ Consolidate Pay) =1 Private/Non-Govt.=1	Govt./Govt-sponsored (Permanent)=0.5 Govt./Govt-sponsored (Contract/Casual/ Temporary/ Consolidate Pay) =0.5 Private/Non-Govt.=0.5

12. It is a specific case of the State that the marks have been awarded according to this distribution pattern specified in the advertisement.

13. As against such submission the petitioner has not stated as to how the marks have not been awarded as per the said marks distribution.

14. We, therefore, find no reason to enter into a reassessment of the marks awarded under this category. Otherwise also it is trite that in exercise of jurisdiction under Article 226 of the

Constitution of India, the Court normally does not go into reassessment of marks, subject however to certain very well established exceptions.

15. In the present case no case whatsoever has been made out to assail the award of marks based on the marks distribution, and only a vague self-serving assertion that the mark is insufficient has been made. Based on such submission, we are not inclined to enter into this aspect of the matter.
16. Insofar as the issue regarding petitioner being denied marks for his post-graduate qualification, as discussed above, we find that even if full 10 marks were to be awarded under the said criteria his total marks would be 70.72, i.e. much below the cut off in his category OBC(A), i.e. 77.72.
17. Insofar as the alleged deprivation in award of marks under the criteria experience, as discussed above, the petitioner has not made out any case.
18. We, therefore, find no reason to interfere the order passed by the Tribunal.
19. The Writ Petition is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)