

25th Nov., 2025

Item no.D/L 14
Court No. 18

Pradip, A.R.(Ct.)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 26860 of 2025**

In the matter of :
Saddam Hossain & Ors. *.... Petitioners*
VS.
The State of West Bengal & Ors. *....Respondents*

For the Petitioners:
Mr. Ujjal Ray
Mr. Abdur Rahim *....Advocate*

For the WBBSE:
Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta *....Advocates*

For the WBCSSC:
Mr. Kalyan Bandopadhyay, Sr. Adv.
Mr. Biswaroop Bhattacharjee
Ms. Pramiti Bandopadhyay
Mr. Arka Kumar Nag
Mr. Rahul Kumar Singh *....Advocates*

For the State:
Mr. Rajat Dutta
Mr. Dipankar Ghosh *....Advocates*

1. Affidavit of service filed in Court today is taken on record.
2. The petitioners participated in the 1st SLST-2016. Initially they were found to be unsuccessful but thereafter by orders passed by this Court, the petitioners were empanelled and appointment letter was issued in their favour in the year 2022/2023.
3. Their service stood terminated by the judgment passed by the Hon'ble Supreme Court on 3rd April, 2025 in Special Leave

Petition (Civil) No. 9586 of 2024 in the matter of **State of West Bengal Vs. Baishakhi Bhattacharyya (Chatterjee) & Ors.** reported in **2025 SCC OnLine SC 719**.

4. However, as their names did not feature in the list of tainted candidates, they participated in the fresh recruitment process conducted by the Commission as per the Recruitment Rules, 2025 relying on which the fresh selection process is being conducted.
5. In the Recruitment Rules, 2025 there is a provision for allotment of marks on account of prior teaching experience. Maximum marks for prior teaching experience which can be allotted is ten; two marks for each year. The same implies that if a candidate has five years of prior teaching experience then ten marks can be allotted.
6. Submission of the petitioners is that as the delay in issuing appointment letter in their favour in respect of the 1st SLST-2016 was no way attributable to them, accordingly, they ought to be given the benefit of the prior teaching experience taking into account the date of issuance of appointment letter in favour of the selected candidates from the first panel.
7. It has been submitted that it is only for the delay in issuance of the appointment letter by the authority that the petitioners entered into service at a delayed point of time. The petitioners lost their job and also lost the tenure of service for the fault on the part of the authorities.
8. Reference has been drawn to the decision relied upon by the Hon'ble Supreme Court in **Baishakhi Bhattacharyya (Chatterjee)** (supra) wherein the Court took note of the judgment passed by the Court in the matter of **Sachin Kumar Vs. Delhi Subordinate Service**

Selection Board (DSSSB) reported in **(2021) 4 SCC 631** wherein the Court laid down that the innocent should not suffer for the actions of the wrong doers. The same aligns with the principle of equality of opportunity under Article 16(1) of the Constitution as well as the fundamental requirements of Article 14 of the Constitution; which mandates a fair, equitable and reasonable process. Care must be taken to ensure that the innocents are not unfairly penalized alongside the wrong doers by cancelling the entire process.

9. Reliance has also been placed on the order dated **8th August, 2025** passed by the Hon'ble Division Bench of this Court in **MAT 1247 of 2025** with **CAN 1 of 2025** in the matter of **Saktipada Pradhan Vs. The State of West Bengal & Ors.** wherein the Court held that a party cannot be made to suffer for the laches on the part of the respondents.
10. Reliance has also been placed on the order dated **6th November, 2025** in **WPA 24701 of 2025** in the matter of **Priyanka Shaw Vs. The State of West Bengal & Ors.** wherein in respect of a similarly situated candidate, the Court directed the Commission to consider the prayer of the petitioner for relaxation of the period of teaching for calculating the marks that can be awarded to the candidate on account of prior teaching experience.
11. Prayer has been made to direct the Commission to allot full marks in their favour on account of prior teaching experience.
12. The Commission opposes the submissions and the prayers made by the petitioners. It has been submitted that as the petitioners did not perform their duties, accordingly, full marks on account of prior

teaching experience cannot be awarded in their favour. Marks on account of prior teaching experience will be awarded upon considering the actual period that they rendered service.

13. In support of such submission reliance has been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of **Ritu Garg & Ors. Vs. Board of Governors Bog & Ors.** reported in **2025 SCC OnLine SC 2363** wherein the Court considered and reiterated the proposition of law laid down in **Union of India Vs. M. Bhaskar** reported in **(1996)4 SCC 416** wherein the Court held that to gain experience one has to work. Notional promotions are given to take care of some injustice but a person so promoted cannot gain experience from the date of notional promotion, it has to be from the date of actual promotion.
14. As regards the direction passed by this Court in **Priyanka Shaw** (supra) it has been submitted that the said direction was passed when the result of the written test was not declared and the interview list was not published. Presently, the result has been declared and the interview list has also been published and there is no scope to award more marks to the petitioners.
15. Prayer has been made to dismiss the writ petition.
16. I have heard the submissions made on behalf of the parties and have perused the materials placed before this Court.
17. It is an admitted fact that the petitioners were issued appointment letter only in the year 2022/2023. The delay in issuing the appointment letter in their favour may not have been attributable to them. There may have been errors on the part of the respondents in not empanelling the petitioners in the list of selected candidates

when the same was published initially in the year 2018. The name of the petitioners stood enlisted only after interference by this Court.

18. It is settled law that a party ought not to suffer for any delay or laches on the part of the authorities. To remedy the injustice caused to a litigant, the practice for providing notional benefit is prevalent in service jurisprudence. In the instant case, the service of the petitioners stood nullified by the order of the Supreme Court and the actual period for which the petitioners were in service was only from the year 2022/2023.
19. The petitioners pray for awarding marks on account of prior teaching experience which they actually do not have. Without teaching or imparting education to a student, a candidate can never gain experience. To direct the Commission to award marks on account of prior teaching experience would amount to granting some benefit to a litigant which they are not entitled to.
20. Had the previous service of the petitioners been continued and not nullified by orders of Court, then the petitioners could have claimed notional benefit including increment. The same does not mean that the petitioners gain practical experience for which marks are awarded by the Commission.
21. The Hon'ble Supreme Court in **M. Bhaskar** (supra) clearly laid down that to gain experience one has to work. The petitioners did not work for the period for which they pray for allotment of marks.
22. In **Sachin Kumar** (supra) the Court reiterated that the innocents should not suffer for the action of the wrong doers. This is an absolute settled proposition of law. Despite noticing the said proposition, the Hon'ble Court had no other option but to set aside

the entire selection process as the entire selection process has been vitiated and tainted beyond resolution. The Court held that manipulations and frauds on a large scale, coupled with the attempted cover up, have dented the selection process beyond repair and partial redemption.

23. The Court, however, permitted the candidates whose names do not appear in the list of tainted candidates to appear in the examination. The petitioners availed the said relief granted by the Hon'ble Supreme Court and have appeared in the examination. Their prayer for awarding of full marks on account of prior teaching experience cannot be accepted in the facts and circumstances of the instant case.
24. No relief can be granted to the petitioners in the instant writ petition. The writ petition fails and is hereby dismissed.
25. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)