

MAT 695 of 2026
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IA No.: CAN 1 of 2026
Dr. Debaprasad Paul & Others
– *Versus* –
The State of West Bengal & Others

Mr. Prosenjit Mukherjee
Mr. Nirmalya Kuamr Das
Mr. Ujjal Gayen
.... for the Appellants.

Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya,
Ms. Mithu Singha Mahapatra
.... for the WBCSC/
Respondent nos.5-7.

The present appeal has been preferred challenging an order dated 10th April, 2026 passed by the learned single Judge in a writ petition being WPA 7992 of 2026 preferred by the writ petitioners/appellants herein praying for issuance of necessary direction upon the West Bengal College Service Commission (in short, the said Commission) and its functionaries to allow the appellants to submit their application forms through *online* irrespective of their age and to allow them to participate in the selection process as per advertisement no.1/2026 dated 6th February, 2026.

By the order impugned, the learned single Judge was pleased to dismiss the writ petition negating the contention of the appellants that age criteria on the

basis of a notification dated 18th December, 2020, as fixed by the said Commission, is not maintainable in view of the fact that the University Grants Commission Regulation, 2018 framed in exercise of the powers conferred under clauses (e) and (g) of sub-section (1) of Section 26 of the University Grants Commission Act, 1956 (in short, the UGC Act) had not stipulated any age criteria for holding examination for the posts of Assistant Professor.

Mr. Mukherjee, learned advocate appearing for the appellants submits that all the appellants except the appellant no.3 are doctorate degree holders and they have been illegally debarred from submitting *online* applications for participating in the selection process by incorporating an upper age limit of 40 years. Such condition in clause 5(i) of the advertisement is repugnant to the provisions of the UGC Act and the regulation framed thereunder.

Mr. Panda, learned advocate appearing for the said Commission and its functionaries, however, disputes such contention and submits that the advertisement published by the said Commission is in consonance with the provisions of the West Bengal College Service Commission Act, 2012. Question of repugnancy, as urged, is not tenable inasmuch as clauses (e) and (g) of sub-section (1) of

Section 26 of the UGC Act had not stipulated any age criteria.

He argues that in the writ petition the appellants challenged clause 5 of the advertisement and a totally new case has been urged in the appeal citing the contents of clause 5(ii) of the advertisement.

He further submits that in view of clause 5(i) of the advertisement, there is no provision for acceptance of any *online* application of any candidate who has exceeded the specified age of 40 years.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The learned single Judge considering the issue of repugnancy, as urged, observed *inter alia* that the provisions of Section 26(1) clauses (e) and (g) do not relate to any age factor and that '*if the petitioners' arguments are taken as correct and the State has no right to fix the age limit, the natural corollary of this submission would be the State would have no right to give an age relaxation either*'.

We do not find any infirmity in such observations of the learned single Judge, however, had the provisions of clause 5(ii) of the advertisement been brought to the notice of the learned Judge, the order might have been otherwise.

Clause 5(ii) of the said advertisement runs as follows:

‘Exceptionally qualified over-aged candidates having Ph. D degree with evidence of significant Post-Doctoral research work may be called for the interview at the discretion of the West Bengal College Service Commission only in the rarest cases, but mere participation in the selection process does not entitle the candidate for recommendation unless the overage of the incumbents condoned by the State Government at its discretion on case-to-case basis, purely on merit, normally not exceeding 1 (one) % of the total number of candidates of concerned panel, rounded off to the next whole number’.

From the said provision it appears that the advertisement itself provides a window to call exceptionally qualified over-aged candidates for interview in the rarest cases and the provisions of clause 5(i) do not debar the Commission to exercise such discretion. However, clause 5(ii) also provides that mere participation in the selection process would not entitle the candidate for recommendation unless the overage of the candidate is condoned by the State Government.

In the said conspectus, the order impugned is modified and the appeal and its connected application are disposed of with liberty to the appellants to submit *offline* applications enclosing all relevant documents to the respondent no.7 within a period of two weeks from date. In the event such applications are submitted, the respondent no.6 shall consider the same in accordance with law and in terms of the provisions of clause 5(ii) of the advertisement and take a decision and communicate the same to the appellants within a period of two weeks thereafter.

It is made clear that in the event the Commission decides in favour of the appellants, then the respondent no.6 shall forward such decision to the State Government for taking necessary follow up steps in terms of clause 5(ii) of the advertisement.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)