

W.P.S.T. 128 of 2023

**The State of West Bengal & Ors.
Vs.
Sami Saikh**

Mr. Tapan Kumar Mukherjee, Id. A.G.P.,
Ms. Saheli Mukherjee

...for the State Respondents

1. Heard the learned A.G.P. appearing on behalf of the State. None appears on behalf of the respondent.
2. We are informed by the learned A.G.P. that the issue for consideration in the present proceeding is whether five years' experience for the recruitment in question can be insisted upon for degree holders or not. It was the writ petitioner's contention before the West Bengal Administrative Tribunal ('Tribunal' for short) that the experience (five years) was required only for those who held no degree; but were holding the equivalent qualification.
3. He thereafter submits that another O.A. was filed by the same writ petitioner bearing O.A. No. 527 of 2022, wherein the issue, whether the petitioner was required to possess the five years' experience or not, was considered and decided by the Tribunal by an order dated 20.03.2023 passed in O.A. No. 527 of 2022. The petitioner challenged the order in W.P.S.T. No. 103 of 2023.

4. The said petitioner is the respondent in the present proceeding arising out of O.A. No.120 of 2020 wherein the Tribunal passed an order on 04.03.2020, in the following terms:

“Hence, the rejection of the candidature of the applicant on the ground of not having experience is uncalled for and illegal and is thus set aside and quashed. The application is allowed. Hence the West Bengal Health Recruitment Board and its Chairman, the respondent Nos.3 and 4 respectively, are directed to consider the candidature of the applicant on merit for the post of Deputy Food Supply Inspecting Officer within four weeks from the date of presentation of a copy of the certified copy of the order.”

5. The State is assailing the said order in the present proceeding. It is pointed out that when the petitioner assailed the order dated 20.03.2023 in O.A. No. 527 of 2022, the same was dismissed by a coordinate Bench of this Court in W.P.S.T. No.103 of 2023 in the following terms:

“The report submitted in terms of the order dated August 29, 2023 establishes that, the educational and other qualifications of the writ petitioner were assessed. The writ petitioner was found not to be possessing any Doctorate degree and, therefore, no marks could be granted in respect thereof. The writ petitioner was also found not to be possessing essential five years experience in State/Government

contract. He was also found not to be possessing additional years of experience of same nature. The total mark awarded was 35. Moreover, in the interview, he was found not to be able to answer the questions put to him.

The writ petitioner participated in the selection process to the post of District Food Safety and Inspecting Officer. His candidature was considered once prior to the intervention of the Court. His candidature was assessed afresh after order of Court. In both the opportunities, he was not successful. In fact, he was found not to be possessing some of the essential qualifications required.

In such circumstances, we find no merit in the present writ petition.

WP.ST 103 of 2023 is dismissed without any order as to costs.”

6. The learned A.G.P., therefore, submits that in view of such finding having been recorded in W.P.S.T. No. 103 of 2023, between the same parties with respect to the same recruitment process, nothing survives in the present writ proceeding.
7. Recording such submission, the writ petition is disposed of.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)