

(2010) 02 CAL CK 0017
In the Calcutta High Court
Case No : Writ Petition No. 17017 (W) of 2009

Nadim Quasmi

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 09-02-2010

Acts Referred:

Citation : (2011) 1 CHN 235

Hon'ble Judges : Biswanath Somadder, J

Bench : Single Bench

Advocate : Md. Abdul Alim, Faria Hossain and Md. Habibur Rahman, for the Appellant; Jamini Kumar Banerjee, Biswajit Banerjee for Respondent Nos. 4 and 5 and Md. Ashraful Baque and Sarwar Jahan, for the Respondent

Judgement

Biswanath Somadder, J.—Affidavit-of-service filed in Court today be kept on record.

2. Heard the learned Advocates for the parties.

3. The instant writ application has been filed by one Nadim Quasmi, being principally aggrieved by the appointment given to the Respondent No. 6, for the post of a librarian in Shamshia High Madrasah (H.S) situated in Khalpara, P.S. Siliguri, District-Darjeeling. According to the Petitioner, although he holds higher qualification, being an Honours Graduate in English, his name was not considered for being empanelled as the first candidate, which happens to be Respondent No. 6. The learned Advocate for the Petitioner submits that the Petitioner was placed as the third empanelled candidate and therefore, challenges the process of empanelment as arbitrary and wrongful and not in accordance with law.

4. At the time of hearing of the instant application, learned Advocate appearing on behalf of the private Respondent No. 6, refers to and relies on the West Bengal Schools (Recruitment of Non-teaching staff) Rules, 2005 (hereinafter referred to as the said Rules). Relying specifically on Sub-rule (9) of the Rule 9 of the said Rules, he submits that the Selection Committee was not authorised to

select a candidate for the post of librarian of a school by awarding extra marks to that candidate for possessing a qualification higher than the qualifications specified in Rule 4. He then refers to Rule 4 and submits that Sub-rule (2) thereunder provides that the qualifications required for appointment of a librarian in a school are a Bachelor's Degree from a recognised University and a certificate in Library Science from a recognised University or Institute, provided that a candidate having Diploma or a Degree in Library Science from a recognised University or Institute shall also be eligible. The other qualification was the ability to read and writ Bengali (or Nepali in case of hill areas). He submits that none of the above qualifications for appointment of a librarian is a Bachelor's Degree with Honours. He, thus, submits that the Petitioner cannot get benefit of the additional qualification he possesses, being an Honours graduate.

5. Learned Advocate appearing on behalf of the concerned school namely, Shamshia High Madrasah (H.S.) refers to the same Rules and submits that although it is true that the writ Petitioner, being an Honours Graduate, does possess higher qualification, the Selection Committee of the school was not authorised in law to award extra marks to the candidate for possessing a qualification higher than the qualifications specified under Rule 4, in view of specific mandate of Sub-rule (9) of Rule 9 of the said Rules. He submits that in the facts and circumstances of the instant case, no injustice has been done to the writ Petitioner by the school and the empanelment of candidates has been made in accordance with law.

6. After considering the submissions made by the learned Advocates for the parties and upon perusing the instant writ petition it appears that for the purpose of recruitment of non-teaching staff, the concerned school is guided by the West Bengal Schools (Recruitment of Non-teaching Staff) Rules, 2005. I am of the opinion that the learned Advocate for the private Respondent No. 6 has rightly pointed out Sub-rule (9) of Rule 9 of the said Rules, which makes it clear that nothing in the Rules shall be construed as authorizing a Selection Committee in selecting a candidate for the post of a librarian in a school, to award extra marks to a candidate for possessing a qualification higher than the qualifications specified under Rule 4. Even on plain reading of Rule 4 and the various sub-rules thereunder, it is patently clear that the qualifications required for appointment of librarian a school does not contemplate a Bachelor's Degree with Honours. In such circumstances, the contention of the writ Petitioner that having higher qualification he ought to have been empanelled as the first candidate does not have any legal basis.

7. Under such circumstances, the writ petition is liable to be dismissed and is hereby dismissed.

8. Urgent photostat certified copy of this order, if applied for, be given to the parties.