

Ct. 08
Item No.23
30.11.2023
(Suvendu)

**FMA 874 of 2023
(MAT 1682/2023)
With
CAN 1 of 2023**

**The West Bengal College Service
Commission & Ors.
Vs.
Dr. Sudeshna Lahiri (Halder) & Ors.**

Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya
.....for the Appellant

Mr. Rajarshi Halder
Mr. Niraj Kumar Singh
....for the respondent

The appeal is arising out of an order passed by the learned Single Judge on 24th July, 2023 in a writ petition filed by the respondent for appointment to the post of Principal in a college where Physics subject is taught. The learned Single Judge after considering the rival contentions directed the College Service Commission to recommend the name of the petitioner for the position of Principal at Mrinalini Datta Mahavidyapith, North 24 Parganas provided that the said college offers the relevant subject for the petitioner to teach.

Learned counsel appearing for the Commission submits that the direction could not have been passed for filling up the vacancy that occurred in 2022. Moreover, during counselling the writ petitioner has offered her candidature for Kalinagar Mahavidyalaya. The said College offers Computer Science and Environmental Studies. The petitioner is having Master's and Ph.D. degree in Physics. Accordingly she was suitable to take classes in respect of both or either of the aforesaid subjects. Moreover, the Principal is mostly engaged with administrative works.

It is emphasized that the vacancy for the post of Principal will occur on and from August, 2023 and the direction to appoint the petitioner against such vacancy would be contrary to the regulation.

It is further submitted that Mrinalini Datta Mahavidyapith had made a requisition before the Commission after the cut-off date which was April 30, 2023 and the said vacancy could not have been considered for the appointment of the writ petitioner in respect of vacancy that would occur on and from 1st August, 2023.

It appears that before the learned Single Judge the aforesaid objections were raised and after due consideration of the said objection the

order was passed. It is not in dispute that the petitioner cannot take any of the classes at Kalinagar Mahavidyalaya where she was appointed as Principal since it offers Economics, Geography and Computer Sciences as she is having Master's and Ph.D. degree in Physics.

Statue 120 (15) under Chapter IV of the West Bengal State University (Barasat, North 24 Parganas) First Statutes, 2014 provides, inter alia, as follows :-

“The Principal shall ordinarily take not less than four periods of class work in a week in his subject.”

The plain reading of the aforesaid provision would show that the Principal would be required to take classes in a week in her subject. Admittedly, she is a Master's and Ph/D. in Physics.

We are unable to accept the submission made on behalf of the petitioner that Computer Science and Environmental Studies could be considered as an allied subject or equivalent to Physics for the aforesaid purpose.

In fact, the requisition of Mrinalini Datta Mahavidyapith would show that if the petitioner is appointed she would teach Physics.

The Court should always ensure that a duly qualified person in a specialized subject is given assignment to teach the subject which he or she has specialization.

The initial appointment being contrary to the Statue and suffers from non-application of mind, we are of the view that the learned Single Judge in such facts and circumstances of the case rightly directed the College Service Commission to recommend the name of the petitioner for the post of Principal at Mrinalini Datta Mahavidyapith, North 24 Parganas provided the said college offers the relevant subjects for the petitioner to teach.

We are also with agreement with the finding that having regard to the qualification of the petitioner and the subjects that Kalinagar Mahavidyalaya offers, the College Service Commission could not have insisted the petitioner to accept such recommendation.

FMA 874 of 2023 and CAN 1 of 2023 are accordingly dismissed in terms of the above.

In view of the pendency of the appeal, we direct implementation of the order of the learned Single Judge within a period of two weeks from the communication of this order by either of the parties.

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

(Uday Kumar, J.)

(Soumen Sen, J.)

Later

The prayer for stay of operation of the order is considered and refused.

(Uday Kumar, J.)

(Soumen Sen, J.)