

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 22644 of 2025

Dr. Banani Bhattacharyya & Others

Vs.

The State of West Bengal & Ors.

Mr. Raghunath Chakraborty

Mr. Supratik Shyamal

Mr. Mehboob Ahmed

....For the petitioners.

Ms. Sudipa Banerjee

Ms. Manisha Paswan

Mr. K.M. Hossain

....For the State.

Mr. Arijit Bakshi

Mr. Arghya Chatterjee

Mr. Sukanta Ghosh

....For the respondent no. 2.

Ms. Shraboni Sarkar
Ms. Umme Habiba Khatun

....For P.S.C.

Ms. Shetparna Ray

....For the respondent no. 7.

Hearing Concluded On : 03.07.2026

Judgment Delivered On : 15.07.2026

Judgment Uploaded On : 15.07.2026

Krishna Rao, J:

1. Facts:

- i. The West Bengal Public Service Commission (hereinafter referred to as “WBPS”) issued Advertisement No. 12/2022 dated 26 November, 2022, inviting applications for permanent recruitment to a Post of Keeper under Unreserved Category (UR), State Archaeological Museum, under the Directorate of Archaeology and Museums, Department of Information and Cultural Affairs, Government of West Bengal. The post carried Pay Level 14 under the West Bengal Services (ROPA) Rules, 2019. The advertisement prescribed the essential qualifications of a Post Graduate Degree in Museology, Archaeology, Ancient Indian History and Culture, Islamic History and Culture, or Classical Languages with specialization in Archaeology, together with a minimum of three years' experience in a reputed Museum or a comparable

Institution. Certain desirable qualifications, including training in Museology, conservation and preservation of museum objects, and publications in the relevant field, were also specified.

- ii.** The petitioners, namely, Dr. Banani Bhattacharyya and Dr. Arabinda Singha Roy, applied for the said post pursuant to Advertisement No. 12/2022. They claim to possess the prescribed educational qualifications and professional experience, including higher academic qualifications such as Ph.D. degrees and experience in the field of archaeology and museology. Supporting documents relating to their qualifications and experience were annexed to the writ petition.
- iii.** On 23 June, 2025, WBPSC issued Notification No. 315-P.S.C. (Selection)/1S-06/2022 publishing a list of 39 candidates who were found eligible to appear for the interview for the single vacancy of Keeper, State Archaeological Museum.
- iv.** Interviews were conducted by the Commission and, thereafter, by Notification No. 378-P.S.C. (Selection)/15-06/2022 dated 31 July, 2025, the Commission recommended Sayantan Mukherjee, the respondent no. 7 for appointment to the solitary unreserved post of Keeper, State Archaeological Museum. The petitioners were not selected.

- v.** After publication of the recommendation, the petitioners sought information regarding the selection process. According to them, the Commission did not disclose the interview marks awarded to candidates, the evaluation matrix adopted by the Selection Committee, the experience verification reports, or any ranked merit list indicating the basis on which the recommended candidate had been selected. One of the petitioners also submitted application under the Right to Information Act, 2005 seeking information relating to the recruitment process.
- vi.** The petitioners further questioned the recruitment process on the ground that although the advertisement contemplated consideration of higher qualifications and permitted short listing on objective criteria, no category-wise cut-off marks or screening benchmarks were disclosed. According to the petitioners, 39 candidates were called for interview against a single vacancy, and they contended that the selection process lacked transparency in the absence of disclosed evaluation criteria. They also asserted that candidates possessing higher academic qualifications, including Ph.D. degrees in relevant disciplines, were not accorded due weightage in the final recommendation. The petitioners further questioned whether the recommended candidate satisfied the prescribed qualifications and minimum experience contemplated by the advertisement.

vii. The respondent Commission denied the allegations of arbitrariness and lack of transparency. The respondents stated that WBPSC, being a constitutional body, had conducted the recruitment strictly in accordance with the applicable recruitment rules and the West Bengal Public Service Commission Rules of Procedure, 1982. It is specifically asserted that the Commission had recommended the most suitable candidate after due verification of the eligibility, qualifications, and experience of the selected candidate.

viii. The respondents also raised preliminary objections to the maintainability of the writ petition. They contended that disputes relating to recruitment to civil posts under the State fall within the original jurisdiction of the West Bengal State Administrative Tribunal under the Administrative Tribunals Act, 1985, and further contended that the writ petition was barred by limitation as the recruitment process had already concluded before the institution of the present proceedings.

2. Petitioners' Argument:

i. The petitioners fulfil the prescribed eligibility criteria and possess superior qualifications. The petitioners submit that each of them satisfied the essential qualifications prescribed under Advertisement No. 12/2022, including the required educational qualifications and experience. They further contended that they

possess higher academic credentials, research qualifications, and substantial professional experience relevant to the post of Keeper, which were not accorded due weight during the selection process.

- ii.** The selection process lacked transparency and fairness. It is argued that the Commission failed to disclose the interview marks, evaluation matrix, comparative assessment, experience verification reports, and ranked merit list. According to the petitioners, such non-disclosure renders the selection process opaque and arbitrary and deprives unsuccessful candidates of the opportunity to understand the basis of the recommendation.
- iii.** The recruitment process was conducted contrary to the applicable Rules of Procedure. The petitioners rely upon the records produced before the Court and contend that the West Bengal Public Service Commission Rules of Procedure, 1982 were not properly followed. They further submit that the interview records disclose only the final aggregate marks awarded to the selected candidate and do not contain the individual assessment made by the members of the Interview Board, thereby raising doubts regarding compliance with the prescribed procedure.
- iv.** Relevant merit and experience were ignored. The petitioners argue that despite possessing extensive experience in archaeology, museums, teaching, research and publications, the Commission failed to give due consideration to these factors.

According to them, the selection was made without properly evaluating the comparative merit of the candidates.

- v. The recommendation of Respondent No. 7 is arbitrary and contrary to the advertisement. The petitioners contend that the recommendation dated 31 July, 2025 in favour of Respondent No. 7 is contrary to the eligibility conditions and the object of Advertisement No. 12/2022. They, therefore, seek quashing of the recommendation and consequential directions for selection of the petitioner no. 1 in accordance with law.

3. Respondents' Arguments:

- i. The recruitment process was conducted strictly in accordance with law. The Commission submits that it is a constitutional recruiting body entrusted with selecting the most suitable candidates for public employment. It contends that the recruitment was conducted strictly in accordance with Advertisement No. 12/2022 and the West Bengal Public Service Commission Rules of Procedure, 1982.
- ii. The Interview Board followed Rule 5(e) of the Rules of Procedure, 1982. The Commission states that interviews were conducted by a three-member Interview Board. As the members reached a unanimous decision regarding the suitability and ranking of

candidates, the average marks awarded by the members constituted the final assessment in accordance with Rule 5(e).

- iii. The selected candidate was found to be the most suitable candidate. The Commission maintains that Respondent No. 7 was selected after due assessment and was recommended as the best suitable candidate. It denies any allegation of illegality, arbitrariness or procedural irregularity in the selection process and seeks dismissal of the writ petition.

4. Private Respondent's (Respondent No. 7) Arguments:

- i. The writ petition is not maintainable. Respondent No. 7 submits that the petitioners voluntarily participated in the recruitment process with full knowledge of the selection criteria and cannot challenge the process after being unsuccessful. The principle that a candidate who participates in a selection process cannot subsequently question it is relied upon in support of this contention.
- ii. Academic superiority alone does not confer a right to selection. It is contended that the advertisement clearly stipulated that the final recommendation would be based on interview performance. Therefore, merely possessing superior academic qualifications does not entitle the petitioners to appointment or establish that they were more meritorious than the Respondent No. 7.

- iii. The assessment of the Interview Board is not ordinarily amenable to judicial review. The Respondent No. 7 submits that the evaluation made by a duly constituted Interview Board is based on expert assessment and subjective satisfaction, which should not ordinarily be interfered with by the Court in exercise of its writ jurisdiction unless mala fides or procedural illegality are established.
- iv. The averaging of interview marks was lawful. It is submitted that the average marking method reflected the consensus of the Interview Board and was uniformly applied to all candidates. Accordingly, the recommendation of Respondent No. 7 cannot be said to suffer from arbitrariness or discrimination.

5. Decision with reasons:

- a. The method of recruitment to the post of Keeper, State Archaeological Museum is as follows:

“A. Method of recruitment:

(i) By direct recruitment, departmental candidates having requisite qualifications, may also apply,

Or

(ii) By transfer from Registering Officers in the directorate of Archaeology, West Bengal,

Or

(iii) By deputation from officers in the posts having comparable scale of pay in the Archaeological Survey of India or Indian Museum or National Museum or any other State Museum

provided they possess the essential qualification for direct recruitment.

In all cases the Public Service Commission, West Bengal will have to be consulted.”

- b.** In the present case, the method of recruitment is direct recruitment and qualification for direct recruitment is as follows:

“B. Qualifications for direct recruitment:

(a) Essential:

- (i) A Post-Graduate Degree of a recognised University in Museology or Archaeology or Ancient Indian History and Culture or Islamic History and Culture or any Classical Languages with specialisation in any branch of Archaeology;*
- (ii) At lease 3 (three) years experience in a reputed Museum or a comparable Institution.*

(b) Desirable:

- (i) Training in Museology from a recognised Museum or Institution:*
- (ii) Training in conservation and preservation of Museum objects from a recognised institution or museum, publication in Art, Archaeology and Museology.”*

- c.** Admittedly, no written examination was conducted. The authorities have decided to fill up the vacant post of Keeper, only by way of interview process. For conducting interview three member’s Board was constituted. The full marks for the interview were 100 and qualifying mark was 40. All together 39 candidates were selected to participate in the interview process.

As per the mark sheet submitted by the Interview Board, the Commission has selected the private respondent no. 7 to be appointed as Keeper as he has obtained 73 marks. Name of five candidates were kept in the panel for future vacancies. The name of the petitioner is at no.1 in the waiting list as the petitioner obtained 70 marks in the interview.

- d. This Court has called for the record of the interview process of the said post. On production of original record along with mark sheet of the Interview Board and on perusal of mark sheet of the Interview Board, it was found that all three members have given similar marks in their individual mark sheet but have not produced the marks provided by each of the members separately during interview.
- e. When this Court has called for records of the marks provided by each of the members in the interview to each candidate, the respondents have submitted a report which reads as follows:

“In pursuance of the order dt. 26.02.2026 of the Hon’ble High Court, it may be stated here that all those mark sheets prepared and submitted separately by the Members of the interview board have already been produced before the Hon’ble High Court in sealed cover on 26.02.2026. Other than those mark sheets, no such individual score sheets or assessment sheets lies with the Commission to submit before the Hon’ble Court.

In fact, those marks have been awarded by the Members of the interview board on the basis of their deliberation and unanimous decision on the performance of the interviewees. Hence, same marks are awarded in favour of individual marks

sheets. If the Members of an Interview Board comprising of two or more Members fail to arrive at a unanimous decision regarding the suitability of a candidate, the matter should be decided by taking the average of the marks given by the Members.”

- f.** The West Bengal Public Service Commission relied upon Rule 5(e) of the Rules of Procedure, 1982 and submits that those marks have been awarded by the members of the interview board on the basis of their deliberation and unanimous decision on the performance of the interviewees. Rule 5 reads as follows:

“5. Where recruitment to a service or post is to be made by selection, the Commission shall subject to the provisions of Sub-section (3) of Article 320 of the Constitution of India and the West Bengal Public Service Commission (Exemption from Consultation) Regulations, 1955-

- (i) advise the appointing authority with regard to the rules regulating the qualifications of candidates;*
 - (ii) announce the number of vacancies to be filled and invite applications;*
 - (iii) consider all applications received and interview a sufficient number of eligible candidates;*
 - (iv) constitute Interview Boards*
- (a) with one or more Members of the Commission or a nominee of the Chairman,*

Note: Chairman/Member will preside in all interview Boards whenever he is associated; when two or more Member are associated, the senior most Member will preside. In other boards constituted without a Member, the nominee of the Chairman shall preside.

- (b) The Board will, if necessary, be assisted by one or more specialists or experts of standing, not connected with the Department/Directorate concerned, chosen by the Commission.*

- (c) *In the said Interview Board the Commission may request an officer of appropriate rank ordinarily not below the rank of Joint Secretary or Head or Additional Head of the Directorate nominated by Government to represent the Department/Directorate for which recruitment is made.*
- (d) *The proceedings of the Board shall not be invalidated by reason of absence of any Member and/or Expert/ Departmental representatives.*
- (e) *Attempts should be made to come to a unanimous decision regarding the suitability or ranking of the candidates selected. If the Members of an Interview Board (of two or more Members) fail to arrive at a unanimous decision regarding the suitability or ranking of a candidate, the matter should be decided by taking the average of the marks given by the Members. If, however, there is a wide difference of marks it should be referred to the Chairman of the Commission.*
- (f) *Where a large number of applications is received as a result of advertisement, the Commission may, for the purpose of short-listing, hold a preliminary examination, even though such examination is not prescribed in the recruitment rules or mentioned in the advertisement. The Commission may, thereafter, call for interview a sufficient number of candidates in order of merit.*
- (g) *The Commission may determine the qualifying standards and also, if necessary, relaxed standard for Scheduled Caste/Schedules Tribe candidates in the written/practical screening test and interview and the relative weightage to be given for academic career and experience for preparing final order of merit.*
- (h) *In case an open advertisement fails or is likely to fail to attract suitable candidates for a post, the duties and responsibilities of which demand a person of high qualifications and*

eminence, the Commission may, in consultation with the Government undertake negotiations with such persons as are not likely to apply in response to open advertisement.

- (i) Forward to the appointment authority the names and other necessary details of the candidates whom it considers most suitable for appointment, arranged in order of preference; provided that the number of candidates recommended shall not exceed the number of vacancies to be filled.”*

g. The respondents have made out a case that members of the Board on deliberation taken a decision on the performance of the interviewees. This Court has called for entire file of the selection process but decision of the Interview Board is not available. Rule 5(e) is not for awarding marks by the members of Interview Board on their deliberation on the performance of the interviewees. As per said Rule, the interview panel must first try to reach a complete agreement on a candidate's suitability or rank. If they cannot unanimously agree, the final decision or ranking will be determined by calculating the mathematical average of the individual scores awarded by each board member. All panel members discuss the candidate and must agree 100% on their final ranking or whether they are suitable. This encourages through deliberation and ensures the Board is completely aligned on decisions. If panel members have conflicting view and cannot agree on a single outcome, the unanimous requirement is dropped. The Board determines the

final score by adding up all the individual marks and dividing by the number of Board members. In the present case, there is nothing on record how the members have come to such decision and what is the basis of the said decision.

- h.** Rule 5(f) provides that where a large number of applications are received as a result of advertisement, the Commission may, for the purpose of short listing, hold a preliminary examination, even though such examination is not prescribed in the recruitment rules or mentioned in the advertisement. The Commission may thereafter, call for interview a sufficient number of candidates in order of merit. In the present case, there is no requirement of written examination in the recruitment rule. Clause 4 of the of the Advertisement No. 12/2022, reads as follows:

“4. The prescribed qualifications are the bare minimum and mere possession of the same does not entitle applicants to be called for the interview. Where the number of applications received in response to the advertisement is large and it is not conveniently possible for the Commission to interview all the applicants, the Commission may restrict the number of candidates to be called for interview to a reasonable limit on the basis of either higher qualifications/ higher marks/ grade obtained in the essential qualifications or experience in relevant field higher than the minimum prescribed in the advertisement or on the basis of a Screening Test.

Note I: Commission has fixed the following qualifying marks in Interview and candidates unable to secure such qualifying marks would not be considered for the post, irrespective of their

academic qualification and/or marks obtained in Screening Test.

<i>Category of vacancies</i>	<i>Qualifying Marks</i>
<i>UR</i>	<i>40%</i>

Note II: Marks obtained in Screening Test will not be considered for preparation of Merit List for recommendation. Marks obtained in the Screening Test will only be considered for selection for candidates for interview for the purpose of restricting the number of candidates to be called for interview to a reasonable limit.

Note III: After display of Model Answers (MCQ Type) in the PSC website, objections by the candidates need to be filed strictly within the specific time limit, beyond which no objections shall be entertained.”

- i.** As per Clause 4 of the advertisement if number of application is large and it is not conveniently possible to the Commission to interview all applicants, the Commission may restrict the number of candidate to call for interview to a reasonable limit on the basis of either higher qualifications/ higher marks/ grade obtained in the essential qualifications or experience in relevant field higher than the minimum prescribed in the advertisement or on the basis of marks obtained in screening test.

Note -II of the advertisement provides that marks obtained in screening test will only be considered for selection of candidates for interview for the purpose of restricting the number of candidates to be called for interview to a reasonable limit.

All together 50 candidates were applied for the said post. On scrutiny of documents, the Public Service Commission has allowed only 39 candidates to participate in the recruitment process but no screening test was conducted, no marks were awarded and no merit list was prepared.

- j.** In Note-III of the Advertisement provides that the Public Service Commission will display the Model Answer (MCQ Type) in the PSC website, objections by the candidates need to be filed strictly within time limit, beyond which no objections shall be entertained but the Public Service Commission has not displayed any Model Answer (MCQ Type) and there is nothing on record to that effect.
- k.** This Court finds that the Public Service commission has not followed the terms and conditions of the advertisement, West Bengal Public Service Commission Rules of Procedure, 1982 and the Board members have not conducted the interview in fair manner.
- l.** The respondents have raised the point of maintainability of the writ application and the petitioner instead of filing an application before the State Administrative Tribunal has filed the instant writ petition. It is the specific case of the petitioners that the petitioners have filed Original Application before the West Bengal State Administrative Tribunal but the Tribunal is

not functioning due to none availability of members of the Tribunal. The petitioners have relied upon the judgment in the case of **Md. Masidul Islam Vs. The State of West Bengal and Others** passed in **WPA No. 27327 of 2025** dated **13th January 2026** and held that the Tribunal is not functioning, writ petition is found to be maintainable before this Court.

- m.** The contention of the petitioners that if the appointment of the respondent no.7 is illegal, direction be given to the Public Service Commission to appoint the petitioner no. 1 as the petitioner no. 1 has obtained 70 marks and is in serial no.1 in the waiting list. In support of his submissions, has relied upon the judgment in the case of **Girjesh Shrivastava and Others vs. State of Madhya Pradesh and Others** reported in **(2010) 10 SCC 707**. In the said case, the Hon'ble Supreme Court held that :

“26. From these facts it can be concluded that the alleged participation of near relatives in the selection process was not such a factor as to vitiate the entire selection process. Even if there were some illegal beneficiaries from the selection process, they should have been weeded out instead of striking down the entire selection process.”

The facts of the case relied by the petitioners is distinguishable from the facts of the present case. In the present case, this Court finds that the Public Service Commission has not conducted the recruitment process in fair manner and in

accordance with the advertisement. In the case relied by the petitioners, the relative of the one of the selected candidate was the member of the selection process.

6. In view of the above, the recruitment process initiated vide Advertisement No. 12 of 2022 for the post of Keeper, State Archaeological Museum is set aside and quashed. Accordingly, the appointment of the respondent no.7 to the post of Keeper, State Archaeological Museum dated 31st July, 2025, is also set aside and quashed.
7. The respondent authorities are directed to initiate a fresh recruitment process to fill up the vacant post of Keeper, State Archaeological Museum immediately in accordance with the Recruitment Rules and West Bengal Public Service Commission Rules of Procedure, 1982. If the candidates who have appeared in the recruitment process in terms of the Advertisement 12 of 2022 become over age, the Public Service Commission shall consider for relaxation of their age if they made any request for relaxation of their age.
8. **WPA No. 22644 of 2025 is allowed.**

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)

Later:

Original file as well as original mark sheets be returned to the Learned Counsel appearing for the PSC.

(Krishna Rao, J.)