

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble Justice PARTHA SARATHI SEN

WPA 9749 OF 2019
SAIKAT SARKAR
-Vs-
THE STATE OF WEST BENGAL & ORS.

For the Petitioner:	Mr. Debajyoti Deb, Adv. Mr. Harshwardhan Kr. Jha, Adv.
For the W.B.M.S.C:	Ms. Koyeli Bhattacharyya, Adv.
For the Respondent No.4:	Mr. Shouveek Ray, Adv. Ms. Indrani Majumder, Adv.
For the Pvt. Respondent No.5:	Mr. Bikash Ranjan Bhattacharya, Sr. Adv. Mr. Dhiman Kr. Sengupta, Adv. Ms. Farhin Mustaque, Adv.
Hearing concluded on:	03.07.2026
Judgment on:	10.07.2026

PARTHA SARATHI SEN, J. : –

1. The subject matter of the instant writ petition is the Notification No. MSC/web/22/Direct-II dated 27.05.2019 issued on 30.05.2019, a copy of which has been annexed at page No. 40 of the instant writ petition being Annexure P-7. By the impugned notification, the respondent No. 3 authority, being the Secretary, West Bengal Municipal Service Commission (the

"Commission" for short), declared the private respondent No. 5 as a successful candidate and thus recommended his name for appointment for the post of Assistant Planner pursuant to Advertisement No. 20 of 2018, as published by the Secretary of the Commission (a copy of the said advertisement dated 07.09.2018 is available at page Nos. 31–33 of the instant writ petition).

2. At the time of hearing, Mr. Deb, learned Advocate appearing on behalf of the writ petitioner, at the very outset placed his reliance upon the said advertisement dated 07.09.2018 as issued and published by the respondent No. 3 authority. It is submitted by Mr. Deb that the writ petitioner, pursuant to such advertisement, applied for the post of ‘Assistant Planner’. At this stage, Mr. Deb also requested this Court to look into the minimum educational qualification with experience as has been required for appointment to the post of Assistant Planner. For better appreciation of the minimum educational qualification with experience for the post of ‘Assistant Planner’, the relevant portion of the said advertisement is reproduced hereinbelow verbatim:

2.	Assistant Planer	01	U.R.	PB-4A Rs. 15,600-42,000/- Grade Pay – Rs. 5,400/-	18–40 yrs.
<u>Minimum Educational Qualification with Experience</u> <i>Essential:</i> Bachelor Degree in Architecture / Civil Engineering with Post Graduate Degree in Urban / Town / City / Regional Planning from a recognized University or Institute approved by AICTE with a minimum of 60% marks with a least 1 year experience (preparation of LUMR & LUDCP / layouts and drafting design statements / Evaluation of the different proposals concerning architectural or town planning fields / attending to public appeals and public inquiries related to planning – understanding general public opinions about planning issues and proposals and visiting sites to assess the effects of proposals on people					

or the environment) in any Govt. Organization / PSU / Local Self Govt. / Development Authority.

Desirable: *Knowledge of Auto-Cad, 3-D Modeling Software, Arc-GIS, Adobe Photoshop, SPSS or other statistical analysis software and through knowledge of M.S. Office, Corporate membership of recognized professional institutions (ITPI), knowledge of modern techniques of comprehensive planning, published papers / articles in the relevant fields with good report writing and presentation skills.*

3. It is submitted by Mr. Deb that from paragraph 10 onwards of the instant writ petition, the writ petitioner has specifically pleaded that the private respondent, whose name had been recommended for the post of Assistant Planner by the respondent No. 3 authority, did not possess the minimum essential experience required for appointment to the post of Assistant Planner and, despite the absence of such requisite experience, the private respondent No. 5's name was recommended, thereby depriving the genuine candidature of the writ petitioner.
4. In the course of his submission, Mr. Deb took me to the affidavit-in-opposition filed by the private respondent No. 5. It is submitted that in paragraph 4(c) of such affidavit-in-opposition, the private respondent No. 5 categorically stated that he completed the degree of Master of Urban and Regional Planning on 23.12.2018 and, to substantiate the same, he annexed a copy of the Master's Degree certificate at page No. 19 of his affidavit-in-opposition. Drawing the further attention of this Court to paragraph 4(f) of the affidavit-in-opposition filed by respondent No. 5, it is argued by Mr. Deb that, in the said paragraph, by way of a tabular format, the private respondent No. 5

has disclosed his work experience in different organizations. It is further submitted by Mr. Deb that from the said tabular chart it would reveal that the alleged working experience of the private respondent No. 5 relates to a period prior to his acquiring the Master's Degree. For better appreciation of such pleading the relevant tabular format is quoted hereinbelow in verbatim:-

<i>Name of Organization</i>	<i>--Period--</i>	<i>No. of days</i>
<i>i) School of Ecology, Infrastructure and Human Settlement Management, Shibpur</i>	<i>19.05.2016 to 22.07.2016</i>	<i>64 days</i>
<i>ii) Tata Institute of Social Science in Mumbai</i>	<i>In May, 2017 for a period of six working weeks</i>	<i>44 days</i>
<i>iii) Gangasagar Bakhkhali Development Authority</i>	<i>07.02.2018-10.06.2019</i>	<i>28 days (i.e. till the last date of application)</i>
<i>Total no. days</i>		<i>394 days</i>

5. Mr. Deb further submits that from page 4 of the affidavit-in-opposition as filed by respondent Nos. 2 and 3 authorities it would reveal that the said authorities considered the experience of the private respondent No. 5 as on the date of the interview and not as on the date of publication of the advertisement, i.e., 07.09.2018, or not even on the last date of submission of the application, i.e., 02.11.2018. It is submitted by Mr. Deb that the said advertisement dated 07.09.2018 clearly indicates the requirement of a minimum of one year experience in the relevant field, which should be after obtaining the Master's

Degree on the relevant subject. It is further submitted by Mr. Deb that, by no stretch of imagination, any working experience prior to obtaining the Master's Degree can be held to be valid experience for applying to the post of Assistant Planner. It is thus submitted by Mr. Deb that, on account of the illegal recommendation of the name of the private respondent No. 5, by the respondent No. 3 authority for the post of Assistant Planner, the writ petitioner's rightful candidature was ignored, though the writ petitioner possessed the requisite qualification and minimum working experience as per the said advertisement dated 07.09.2018. Mr. Deb thus submits that this is a fit case for cancellation of the impugned notification dated 30.05.2019 and, consequently, the appointment of the private respondent No. 5 by respondent No. 4 authority may be cancelled. It is further argued by Mr. Deb that this is a fit case for issuance of an appropriate writ against the respondent Nos. 2 and 3 commanding them to recommend the name of the writ petitioner as a successful candidate for the post of Assistant Planner and the respondent No. 4 authority may be directed to issue an appointment letter in favour of the writ petitioner for the said post.

6. Per contra, Ms. Koyeli Bhattacharyya, learned Advocate appearing on behalf of respondent Nos. 2 and 3, also placed her reliance upon the advertisement dated 07.09.2018. It is submitted by Ms. Bhattacharyya that the last date for making such application was extended from 02.11.2018 to 20.11.2018 and the same has been disclosed in the affidavit-in-opposition of the respondent nos. 2 and 3. Drawing attention to the affidavit-in-opposition

filed by respondent Nos. 2 and 3 authorities, it is submitted by Ms. Bhattacharyya that it is the specific case of the respondent nos. 2 and 3 authorities that in connection with the said advertisement, applications were accepted online and, therefore, respondent Nos. 2 and 3 had no opportunity to scrutinize the educational certificates and experience credentials prior to the personality test. It is further argued by Ms. Bhattacharyya that, on the date of the interview of private respondent No. 5, respondent No. 3 authority found that the private respondent No. 5 possessed the minimum one year's work experience as on the date of the interview and, therefore, recommended his name for appointment to the post of Assistant Planner, since he had secured the highest total marks in the written test and the interview. It is further submitted by Ms. Bhattacharyya that nowhere in the advertisement dated 07.09.2018 it was indicated that the minimum one year's experience was required to be acquired after completion of the Master Degree in the relevant subject. It is thus submitted by Ms. Bhattacharyya that, since on the date of the interview respondent No. 3 authority found that private respondent No. 5 possessed the minimum one year's work experience in the relevant field, the respondent No. 3 authority found no reason to treat his candidature as invalid. It is thus submitted by Ms. Bhattacharyya that the instant writ petition is devoid of merit and is liable to be dismissed.

7. In the course of his argument, Mr. Ray, learned Advocate appearing on behalf of respondent No. 4 authority, placed reliance upon the following two judgments:

- a) ***Subhash, S/o Shriram Dhonde vs. State of Maharashtra & Anr.*** reported in ***1995 Supp (3) SCC 332***

and

- b) ***Dr. Sharmad vs. State of Kerala & Ors.*** reported in ***2025 SCC OnLine SC 71.***

8. It is submitted by Mr. Ray that, in the case of ***Subhash (Supra)***, the Hon'ble Supreme Court noticed no difference between acquisition of experience prior to or after acquisition of the basic qualification.

9. Placing reliance upon the case of ***Dr. Sharmad (Supra)***, it is submitted by Mr. Ray that, in a similar situation, the Hon'ble Supreme Court had occasion to consider an identical issue, wherein it was held that the exclusion of the words "after acquiring postgraduate degree" is deliberate and conscious, since the Government did not require such post-qualification experience for the posts under consideration. It is thus submitted by Mr. Ray that, upon careful scrutiny of the contents of the advertisement dated 07.09.2018, it would reveal that respondent Nos. 2 and 3 deliberately excluded the words "after acquiring Post Graduate Degree" after the words "one year's experience".

10. In course of his argument Mr. Ray placing his reliance upon the judgment as passed in the case of ***A.K. Raghumani Singh & Ors. vs. Gopal Chandra Nath & Ors.*** reported in ***(2000) 4 SCC 30*** contended that the term "with" as has been mentioned in between the words "minimum educational qualification" and "experience" has been well explained by the Hon'ble Supreme Court. It is submitted by Mr. Ray that the Hon'ble Supreme Court in an

identical situation while dealing with the word “with” came to a finding that the Court would not be justified in reading a qualification into the conjunctive word and imply the word “subsequent” after the word “with”

11. Placing his reliance upon the judgment as passed in the case of ***Post Graduate Institute of Medical Education & Research, Chandigarh vs. Gurvinder Singh & Ors.*** in ***Civil Writ Petition No. 5202 of 2017*** by the High Court of Punjab and Haryana, it is argued by Mr. Ray that the said Hon’ble High Court held that unless it is so expressly provided under the rules, the experience gained before or after acquiring the academic qualification would be a valid experience for the purpose of determining the eligibility. In his next limb of submission Mr. Ray contended that in the unreported decision as passed in ***WP(C) No. 2554 of 2026 (Union Public Service Commission vs. Piyush Anand & Anr.)*** the High Court of Delhi also considered that the period of internship in an organization where the incumbent discharged his duty rigorously is to be considered as an experience in the relevant field.
12. Mr. Ray thus submits that, for the reasons stated hereinabove, it cannot be said that the candidature of private respondent No. 5 was not valid for the post of Assistant Planner. It is thus submitted by Mr. Ray that respondent No. 3 authority rightly recommended the name of the private respondent No. 5 for the post of Assistant Planner and, therefore, the instant writ petition is liable to be dismissed.
13. In course of his submission Mr. Bhattacharya, learned Senior Advocate appearing on behalf of the private respondent no. 5 at the very outset draws

attention of this Court to the prayers made in the instant writ petition. It is submitted by Mr. Bhattacharya that in the instant writ petition the appointment of the writ petitioner was never under challenge. At this stage attention of this Court is drawn to page nos. 31 to 33 of the instant writ petition being a copy of the advertisement as published by the respondent nos. 2 and 3 authorities. Drawing attention to the affidavit-in-reply as filed by the respondent nos. 2 and 3 authorities, it is submitted by Mr. Bhattacharya that from the various paragraphs of the said writ petition it would reveal that the respondent nos. 2 and 3 authorities being an expert body considered private respondent no. 5 as a suitable candidate for recommendation for the post of “Assistant Planner” and in absence of any glaring perversity, such decision ought not to have been interfered with in a judicial review.

14. In his next limb of submission Mr. Bhattacharya again draws attention of this Court to the said advertisement. It is submitted that the said advertisement clearly indicates that the aspirants applying for the post of “Assistant Planner” must possess some essential academic qualification and experience in the field as have been mentioned in the said advertisement in detail. It is argued by Mr. Bhattacharya that as to whether the experience of an aspirant touches the parameter as mentioned in the said advertisement has been decided by a panel of experts, the correctness of which ought not to be questioned by the Hon’ble High Court since the said body of experts is the best authority to decide whether the experience of the aspirant will suit their

purpose. In this regard, reliance is placed upon the judgment as passed in the case of **G.N. Nayak vs. Goa University & Ors.** reported in **(2002) 2 SCC 712**.

15. Mr. Bhattacharya also placed his reliance upon the judgment as passed in the case of **Madras Institute of Development Studies & Anr. vs. K. Sivasubramaniyan & ors.** reported in **(2016) 1 SCC 454**. It is submitted by Mr. Bhattacharya that in the case of **Madras Institute of Development Studies (Supra)** the Hon'ble Supreme Court expressly held that the decision of the academic authorities about the suitability of a candidate cannot normally be examined by the High court under its writ jurisdiction. It is thus submitted by Mr. Bhattacharya that it is a fit case for dismissal of the instant writ petition.

16. In course of his reply Mr. Deb, learned Advocate appearing on behalf of the writ petitioner in his usual fairness submits before this Court that he is not urging the point that on the day of publication of the advertisement or on the last day of submission of application as per the said advertisement the private respondent no. 5 has not acquired his degree in Master's in the relevant subject since on the day of publication of the advertisement, the provisional result of the 4th semester examination in such Master's Degree course was published and the private respondent no. 5 was found to be cleared the said examination with first class. It is however submitted that from the affidavit-in-opposition of the private respondent no. 5 it would reveal that the experience as has been described by a tabular form and as has been quoted in the foregoing part of this judgment is not in accordance with the requirement of the

said advertisement. It is thus submitted by Mr. Deb that the private respondent no. 5 had no requisite working experience as called for in the said advertisement by the respondent nos. 2 and 3 authorities and even such experience has not been acquired by the said private respondent no. 5 after obtaining Master's Degree and thus he ought not to be considered as a qualified candidate for the post of "Assistant Planner" by the respondent nos. 2 and 3 authorities.

17. This Court has meticulously gone through the entire materials as placed before this Court including the reported decisions as cited from the Bar. This court has given its due consideration over the submissions of the learned Advocates for the contending parties.

18. In order to arrive at a logical conclusion of the instant *lis*, this Court at the very outset proposes to look to the law of land regarding experience as required for being qualified as an eligible candidate for a particular post. In other words, this Court shall make a venture to examine as to whether acquisition of working experience prior to acquisition of the basic qualification as has been indicated in an advertisement for appointment of a candidate for a particular post can be held to be a valid experience in case of the public employment.

19. In the reported decision of ***Subhash (Supra)*** the Hon'ble Supreme Court while dealing with a similar situation and /or a similar type of question held thus:

"2. The Tribunal has dismissed the appellant's application only on the ground that the appellant had acquired the

working experience of one year prior to acquisition of the basic qualifications which in this case is diploma in Automobile Engineering. For this purpose, the Tribunal relied upon the circular issued by the Government. The rules, namely, the Motor Vehicles Department (Recruitment) Rules, 1991 framed under Article 309 of the Constitution show that a mere possession of the working experience of at least one year in a reputed Automobile Workshop as mentioned under Rule 3(e) is enough. The rule does not make any difference between acquisition of such experience prior to or after the acquisition of the basic qualification. What is further, the record shows that even after the acquisition of the basic qualification as mentioned in Rule 3(c), the appellant has acquired the additional experience of one year in a reputed Automobile Workshop as required even by the said circular. The Tribunal has committed an error in relying upon the circular which cannot replace the rules framed under Article 309 of the Constitution. We are, therefore, of the view that the Tribunal's decision is incorrect. Since the appellant satisfies the qualifications required by the rules, the decision of the Tribunal has to be set aside.”

20. In the case of **Dr. Sharmad (Supra)** a similar question arose before the Hon’ble Supreme Court as to whether a requisite numbers of years of physical teaching experience after acquiring Post Graduate degree is/are required for being qualified of the valid candidate. While dealing with such situation the Hon’ble Supreme Court held thus:

“5. Insofar as Branch - I i.e. Administrative Cadre is concerned, the same bore two posts i.e. Director of Medical Education and Joint Director of Medical Education/Principals of Medical Colleges. Under the column experience, we find the requirement for appointment on the posts of Director of Medical Education and Joint Director of Medical Education/Principals to be common. The same reads as under:

“Minimum 10 years of Physical Teaching Experience in Government Medical Colleges (under Medical Education Department in Kerala) after acquiring postgraduate degree”.

(emphasis supplied)

6. For recruitment and appointment on the posts of Professor, Associate Professor and Assistant Professor, the educational qualifications appear to be the same. An aspirant must have the degree of M. Ch in Neurosurgery or DNB (Neurosurgery). The experience criteria required for the said three posts, however, vary. The same are set out hereunder:

Professor	Associate Professor	Assistant Professor
One year Physical Teaching experience as Associate Professor.	Five years Physical Teaching experience as Assistant Professor.	Three years Physical Teaching experience as Senior Lecturer/Lecturer.

7. If the experience criteria required for appointment on the posts under Branch - I i.e. - Administrative Cadre are juxtaposed with the experience criteria required for appointment on the teaching posts of Professor/Associate Professor/Assistant Professor, what stands out is that in case of posts in the teaching cadre, the words “after acquiring postgraduate degree” are conspicuous by its absence under the column ‘experience’.”

“22. The submission on behalf of Dr. Jyotish that posts borne in the Administrative Cadre have responsibilities different from those borne in the Teaching Cadre, though attractive at first blush, pales into insignificance primarily for the reason that insistence of physical teaching experience of a specified number of years with a particular postgraduate or super speciality degree would seem to be more required and demanding for appointment on posts in the Teaching Cadre rather than those in the Administrative Cadre. We are, thus, minded to hold that the exclusion of the words “after acquiring postgraduate degree” is deliberate and conscious and the contentions advanced by Mr. Chitambaresh, to the contrary, do not commend acceptance.”

“26. Furthermore, an examination of the ratio of the decision favours the case of Dr. Sharmad. Not only does the

passage begin with ‘(N)ormally’ leaving room for cases which are other than normal, this Court also qualified that experience required should be deemed to be experience gained after acquiring the minimum qualifications, unless the context otherwise demands. This is crucial. Also, such a general interpretation may not arise in case of promotional appointments. G.O. dated 07th April, 2008, read as a whole, evinces without any ambiguity the view of the Government that where the experience had to be gained posterior to the acquisition of qualification, it had directly stated so. Thus, in the context of this case, absence of such a stipulation gives rise to but one conclusion, that the Government did not demand such post-qualification experience for the posts under consideration here. Although, normally, experience gained after acquiring a particular qualification could justifiably be insisted upon by the employer, there could be exceptions and the present case is one such exception. It is well settled that the intention of the rule framer has to be assessed on both parameters i.e. the words used and that of necessary implication. The requisite of post-qualification experience being present in Branch - I, and absent from Branch - II, necessarily implies that it was not a requirement for appointments on promotion to posts borne in Branch - II.”

21. In the case of **A.K. Raghumani Singh (Supra)** the Hon’ble Apex Court while dealing with a similar question regarding eligibility criteria of 6 years regular service after the educational qualification was obtained or prior to obtaining such qualification in terms of the promotion notification expressed the following view:

“2. The Rules regulating the recruitment to the posts of Superintending Engineers of the State of Manipur were notified on 18-10-1977. The Rules called “the Manipur PWD/Irrigation and Flood Control/Public Health Engineering [Superintending Engineer (Civil)/ Superintending Surveyor of Works] Recruitment Rules, 1977” provide that the post of Superintending Engineer shall be filled up by promotion from “Executive Engineer (Civil)/(Mech.) and Surveyor of Works possessing degree in Civil/Mechanical Engineering or its equivalent

from a recognised institution with 6 years' regular service in the grade”.

3. The vacancy in the post of Superintending Engineer arose in 1991. In the same year Respondent 1 filed a writ application seeking directions on the State Government to consider his name for promotion to the post as he had put in 12 years' service in the grade and possessed the necessary educational qualifications.

4. The writ application was opposed by the State respondents. They contended that the eligibility criteria required six years' regular service after the educational qualification was obtained. In the writ petitioner's case, his period of service after he obtained the AMIE Diploma was far short of the requirement and as such, according to the respondents, he could not be considered for promotion to the post of Superintending Engineer. The writ application was allowed by the learned Single Judge on 17-3-1993. It was held that the requirement of six years' service was independent of the requirement of educational qualifications and the eligibility criteria was fulfilled even if the requisite experience had been obtained before obtaining the educational qualifications.”

“7. The word “with” has been defined in the New Shorter Oxford Dictionary (1993), diversely the meaning depending on the context in which it is used. But when it is used to connect two nouns it means: “Accompanied by; having as an addition or accompaniment. Frequently used to connect two nouns, in the sense ‘and’ — ‘as well’.”

8. Applying the definition to the eligibility criteria it is clear that it requires the prescribed educational qualification and 6 years' experience as well. Given the plain meaning of the phrase, the Court would not be justified in reading a qualification into the conjunctive word and imply the word “subsequent” after the word “with”.

22. in the case of **Gurvinder Singh (Supra)** a Division Bench of the High Court of Punjab and Haryana expressed the following view:

“Post Graduate Institute of Medical Education and Research, Chandigarh (for short, 'the PGIMER') assails the order dated 09.12.2016 whereby the Central

Administrative Tribunal, Chandigarh Bench has held the 1 respondent eligible for the post of Store Keeper.

[2] The issue which fell for consideration of the learned Tribunal was whether three years' experience in handling store preferably medical store in a Government/public/private sector was required to be gained after acquiring the essential qualification or such an experience earned before acquiring the essential qualification was also sufficient to become eligible for the post of Store Keeper?

[3] The essential qualification prescribed for the post of Store Keeper by the petitioner-Institute is as follows:-

***"Essential:-** (i) Bachelors degree in Economic/ Commerce/ Statistics.*

(ii) Postgraduate degree/diploma in Material Management from a recognized University/Institute or equivalent.

***Desirable:-** Experience in handling stores and record keeping in a store preferably medical or concern of a repute in public or private sector.*

Or

(i) Degree of a recognized University or equivalent.

(ii) Post graduate degree/diploma in Material Management of a recognized University/Institute.

(iii) Three years experience in handling stores preferably medical stores in Government/Public/Private Sector...."

[4] It may be seen that the Rule nowhere explicitly provides that the three years' experience in handling store preferably medical stores in Government/Public/Private Sector must have been gained after the acquisition of academic qualification of Post Graduate degree/diploma in Material Management.

[5] The 1st respondent applied in response to the advertisement issued by the petitioner-Institute. He qualified the written test but at the time when candidates were short-listed for viva-voce, the name of 1st respondent was placed amongst non-eligible candidate with the objection that his three years' experience was not post the essential qualifications."

23. On careful perusal of the propositions of law as decided in the aforementioned reported decisions as quoted supra, it appears to this Court

that it is the consistent view of the Hon'ble Supreme Court that unless rule and/or notification for advertisement does not make any difference between acquisition of such experience 'prior to' or 'after' the acquisition of the basic qualification, in that event the High Court in its judicial review must restrain itself from adding a conjunctive word "subsequent" after the words "with" in order to imply that such working experience would mean after acquisition of basic qualification. It further appears to this Court that in the case of **Dr. Sharmad (Supra)** the Hon'ble Supreme Court categorically observed that in a like situation, absence of such a stipulation gives rise to but one conclusion that the selecting authority did not demand such post qualification experience for the post under consideration unless the same is conspicuous either in the recruitment rule or in the advertisement seeking application for appointment.

24. At this juncture, if I once again look to the relevant advertisement which is subject matter of the instant writ petition, it appears that the respondent nos. 2 and 3 authorities have indicated in the said advertisement for the post of "Assistant Planner" that the aspiring candidate must possess Bachelor Degree in Architecture/Civil Engineering with Post Graduate Degree in urban/ town/ city/ regional planning from a recognized university or institute governed by AICTE with a minimum of 60% marks, with a least 1 year experience in preparation of LUMR and LUTCP/ lay outs and drafting business statements/ evaluation of the different propositions concerning architectural or town planning fields etc. It appears to this Court that it goes without saying

that the private respondent no. 5 possessed essential educational qualification for being appointed for the post of “Assistant Planner”.

25. At this stage if I look to the part of experience as called for in the said advertisement, it reveals that the respondent nos. 2 and 3 authorities being selection authorities called for at least 1 year experience in the relevant subjects. If the said advertisement is looked into keeping in mind the proposition of law as decided in the case of **Subhash (Supra)**, **Dr. Sharmad (Supra)** and **A.K. Raghmani Singh (Supra)**, it appears to this Court that after the words “with at least 1 year experience” the words “*after acquiring Post Graduate Degree*” are/were consciously not included by the respondent nos. 2 and 3 authorities. In considered view of this Court in the event the respondent nos. 2 and 3 authorities being an expert body considers that for the post in question 1 year experience in the relevant subjects is sufficient, this Court while sitting in a judicial review cannot add the word “subsequent” and/or “after acquiring Post Graduate Degree” in absence of any contrary material. In course of his argument Mr. Deb would not show any rule and/or any clause in the said advertisement that the experience gained only after acquiring the requisite academic qualification could be valid for the purpose of determining the eligibility criteria.

26. As discussed (Supra) Mr. Deb in course of his argument was also very vocal with regard to inadequacy of experience of the private respondent no. 5 inasmuch as according to Mr. Deb the alleged experience of the private respondent no. 5 as has been indicated in page no. 6 of the affidavit-in-

opposition of the respondent no. 5 and as has been quoted in the foregoing paragraph in a tabular form is/are absolutely inadequate in terms of the advertisement in question. In considered view of this Court, this Court finds no much force in the argument of Mr. Deb since in absence of any patent illegality and/or irregularity in the decision making process while selecting the private respondent no. 5 as a suitable candidate for the post of “Assistant Planner” this Court sitting in writ jurisdiction cannot substitute its own view simply because another view is possible. In this regard, recourse may be taken to the reported decision of **Madras Institute of Development Studies (Supra)** as referred to on behalf of the private respondent no. 5 wherein the Hon’ble supreme Court expressed thus:

“12. It is well settled that the decision of the academic authorities about the suitability of a candidate to be appointed as Associate Professor in a research institute cannot normally be examined by the High Court under its writ jurisdiction. Having regard to the fact that the candidates so selected possessed all requisite qualifications and experience and, therefore, their appointment cannot be questioned on the ground of lack of qualification and experience. The High Court ought not to have interfered with the decision of the Institute in appointing Respondents 2 to 4 on the post of Associate Professor.”

27. Similar view was taken by the Hon’ble Supreme Court in the case of **G.N. Nayak (Supra)** wherein the Hon’ble Supreme Court while dealing with the scope of judicial review in respect of required experience as called for by the University expressed the following:

“24. If we analyse the 1995 advertisement and handout it will be seen that the minimum qualifications prescribed for a candidate were that he/she had to be:

(a) an eminent scholar;

(b) with work of high quality;

(c) actively engaged in research;

(d) with 10 years' experience in postgraduate teaching and/or research at the university/national-level institution including experience of guiding research at doctoral level;

.....”

“26. The advertisement was issued in October 1995 and the Selection Committee met on 20-5-1996. The appellant claims that if the research which was conducted by him for three years in connection with obtaining his Doctoral degree is counted in addition to his teaching experience, he is qualified.

27. That a candidate can club together his qualifications of teaching and research to cover the 10 years' period has been held in Kumar Bar Das (Dr) v. Utkal University [(1999) 1 SCC 453 : 1999 SCC (L&S) 236] . The question still remains, would any kind of research at a university do? Strictly speaking and as a matter of legal interpretation, the phrase “research at the university/national-level institution” should be read ejusdem generis and in the context of the alternate qualifications specified viz. “teaching experience” and the last phrase “including experience of guiding research at doctoral level”. In other words, the research must be independent such that the researcher could guide others aspiring for Doctorate degrees and not the research where the researcher is striving for a Doctorate degree himself. The appellant's research prior to 17-9-1986 was pre-doctoral. Consequently and according to the letter of the law, perhaps the appellant was not qualified to be considered as a candidate for a Professorship in 1996 since he had failed to meet the criteria by about four months.

28. However, the Court would not be justified in adopting a legalistic approach and proceed on a technical view of the matter without considering the intention of the

University in laying down the condition of eligibility [Uma Shankar Sharma v. Union of India, (1980) 3 SCC 202 : 1980 SCC (L&S) 348 : AIR 1980 SC 1457] , since it is for the University to decide what kind of research would be adequate to qualify for professorship. The University had intended, understood and consistently proceeded on the basis that the pre-doctoral research could be counted towards the 10 years' experience clause. So did Respondent 5.”

28. On careful consideration of the facts and circumstances as involved in the instant writ petition and after giving due adherence to the propositions of law decided by the Hon'ble Supreme Court time and again, it appears to this Court that in the relevant advertisement dated 07.09.2018 for the post of “Assistant Planner” it was never the intention of the respondent nos. 2 and 3 authorities that the aspiring candidate must have 1 year experience in the relevant field after acquisition of the Post Graduate Degree. It thus appears to this Court that the respondent nos. 2 and 3 authorities being a specialized body for taking recruitment examination and selection of the candidate for the relevant post is the best authority to decide the requirement of academic qualification vis-à-vis the experience and in doing so they have published the said advertisement dated 07.09.2018 for the post of “Assistant Planner” indicating the essential education qualification with at least 1 year experience in the relevant field consciously omitting the words “*after acquisition of Post Graduate Degree*”. As has been held time and again by the Hon'ble Supreme Court that this Court sitting in writ jurisdiction in judicial review cannot substitute itself as a specialized body and thus cannot import the words

“subsequent to obtaining Post Graduate Degree” after the words “with at least 1 year experience”.

29. In view of the discussion made hereinabove this Court thus finds no merit in the instant writ petition.
30. Accordingly, WPA 9749 of 2019 stands hereby dismissed.
31. There shall be, however, no order as to cost.
32. Interim order if there be any stands hereby vacated.
33. With the dismissal of the instant writ petition all pending interlocutory applications, if there be any, stand hereby dismissed.
34. Urgent photostat certified copy of this judgement, if applied for, be given to the parties on completion of usual formalities.

(PARTHA SARATHI SEN, J.)

(P.A.- PRAMITA)