

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

W.A. No.160 of 2022

Sri Pratik Modak

.....Appellant

_V_E_R_S_U_S_

The Union of India and Others

.....Respondents

For Appellant(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. S. Bhattacharjee, Advocate.
For Respondent(s)	:	Mr. D. Bhattacharjee, G.A. Mr. B. Majumder, Deputy SGI. Mr. K. De, Addl. G.A.
Whether fit for reporting:		YES/NO

Judgment and order dated 17th January, 2023

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH**

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the appellant. Also heard Mr. D. Bhattacharjee, learned G.A., Mr. B. Majumder, learned Deputy SGI and Mr. K. De, learned Addl. G.A. appearing for the respondents.

[2] The appellant has prayed for the following reliefs:

- "i. Admit the appeal.*
- ii. Call for the records.*
- iii. After hearing both the parties, quash & cancel the order dated 25.05.2022 passed by the L'D Single Judge, in WP(C) No.333/2021 & grant the relief sought for by the appellant in WP(C) No.333/2021."*

[3] The present petition has been filed under Article-226 of the Constitution of India read with Chapter-VA Rule-2(2) of the Gauhati High Court Rules, as applicable against the impugned order dated 25.05.2022 passed by the learned Single Judge in connection with WP(C) No.333 of 2021.

[4] The facts in brief of the present are that this appeal has been filed being partly aggrieved against the order dated 25.05.2022 passed by the learned Single Judge in WP(C) No.333 of 2021. By the said judgment, the learned Judge has dismissed the writ petition filed by the appellant. In the writ petition,

the appellant contended that by advertisement, dated 26.03.2022, the Chief Executive Officer, Tripura Rural Livelihood Mission took up the exercise for filling up various posts amongst which one post of Programme Manager (Procurement) reserved for UR candidates.

[5] The appellant having all the requisite qualification applied for the post of Programme Manager (Procurement). The appellant token number is 30393. Thereafter, the appellant successfully qualified all the selection procedure and became eligible to get offer of appointment. The appellant filed several representations, before the respondents but, till date no response. The respondents have kept in abeyance the offer of appointment given to the appellant. But the respondents have issued offer of appointment in respect to other candidates selected through the same selection process. Against such arbitrary decision of the respondents, the appellant filed the writ petition, which after hearing by the learned Single Judge dismissed vide order dated 25.05.2022. Hence, the present appeal has been filed by the appellant.

[6] Learned senior counsel appearing for the appellant has submitted that vide memo dated 15.12.2020, the appellant along with other candidates were requested to appear for orientation on Rural Attachment Test (for short, RAT) after completion of all eliminating process mentioned in this petition on 17.12.2020, at Sonar Tori Guest House, Agartala. In the said memo, against the head of CAT-1, for the post of Programme Manager (Procurement) the appellant's token No.30393 was clearly reflected and accordingly, the appellant was sent for RAT.

[7] The learned Single Judge has failed to consider that in a selection process when explicitly or implicitly there is no cut off marks or bench mark for RAT the candidate who successfully qualified in three stages of the selection test cannot be shown the door on the basis of his performance in RAT though there was no cut off mark or bench mark for RAT. The learned Single Judge also failed to consider that all the three stages of selection focus was on

to test the candidate's aptitude and orientation to find out whether the candidate was suitable for the post and for this reason, the learned Single Judge committed manifest error of fact holding that RAT was mainly for testing the aptitude of the candidate for the post and for this reason the selection board in its discretion rightly considered the appellant's performance who scored 18 out of 50 marks as poor not satisfactory.

[8] Mr. Roy Barman, learned senior counsel further averred that the appellant being lived for seven days in a rural area with a rural family and as such the appellant familiarized himself with the tabulations and charms of the rural life and after such stay, the appellant submitted field report which was presented by the appellant and for assessment of presentation 50 marks was earmarked, as such, the learned Single Judge committed error by overemphasizing the evaluation of presentation of the RAT and total perspective and objective of the RAT has been lost in this process, causing serious prejudice to the appellant.

[9] The learned Single Judge absolutely failed to consider that Articles-14 & 16 of the Constitution of India has been infringed upon the respondents. The learned Single Judge also failed to appreciate that the selection board cannot act like an unruly horse and there is no room for unfettered discretion without any definitive and known parameter for exercising such discretion.

[10] The entire short-listed candidate shall undergo this as part of the selection process. During the Rural Attachment Test the candidates shall have to stay in a rural poor family continuously for 07 (seven) days. The details of the field attachment test is designed in such a manner so that the candidate's empathy and working relationship with the poor, interest and understanding of the rural area, local area specific possibilities and constraints, capability to empathize, facilitate and communicate with the rural people can be assessed objectively. Field Report (FR) has to be submitted and a Presentation of about

15-20 minutes has to be made by each candidate on the field experience/findings in the debriefing to the recruitment panel. The candidates those who are found to have failed to stay 7 days continuously in rural areas shall be disqualified for further evaluation on the basis of report.

[11] Now, Mr. Roy Barman, learned senior counsel has submitted that out of 50 marks, the appellant has got 18 marks. Since there is no cut off marks, the appellant ought to have been recommended and by not recommending the appellant, the respondents have acted arbitrarily and as such, this court should interfere in the process and deem the appellant as successful in the recruitment test.

[12] However, as per the recruitment policy of TRLM Society, from the RAT maximum three times of the post (category wise) shall be short listed in order to prepare the merit list. The appellant was the only candidate who was short listed for Rural Attachment Test [RAT] for the position of Programme Manager (Procurement) and as per the interview Board, the appellant was not found suitable based on RAT.

[13] For the purpose of reference, the findings of the learned Single Judge may be reproduced hereunder:

“If the reply filed by the respondent No.6, the memorandum dated 20.05.2017 has been annexed as Annexure-R/2. All the stages for the recruitment test, as noted, have been quite succinctly provided in the said memorandum and this court finds that there is no allegation about the first three stages of the recruitment process from the petitioner. His grievance is only in respect of the Rural Attachment Test [RAT].

Solely on the basis of the result of RAT, the final merit list is prepared. As stated earlier, the RAT has been designed to assess the empathy and capacity to interact with the rural people and understand the specific possibilities and the constraints in their empowerment. A candidate who is given the rural attachment for purpose of test and evaluation of a report. The performance on the both counts will be assessed under 50 marks. As stated earlier, the petitioner got 18 marks. Admitted by, there is no cut off marks. If there were cut off marks and the petitioner got the cut off marks, then definitely the situation would be been otherwise. But if there is no cut off marks, the opinion of the interview board will prevail unless that is

grossly perverse. The presentation is made before the members of the interview board and therefore, nobody can assess the sensibility of the petitioner while presenting the particular issue or interacting with the members of the board. 18 in comparison to 50, being total marks, for such post definitely denotes a very poor performance.

Having observed thus, this court does not find any infirmity in process and as such the relief has urged by the petitioner cannot be granted. In the result, this writ petition stands dismissed.”

[14] In view above discussion and after observing the findings of the learned Single Judge, we are of the opinion that this Court cannot sit as an appellate authority upon the selection committee. It is not open for the appellant to having faced the notification and the selection procedure to point out that he was not selected under the Rural Attachment Test [for short, RAT]. Now he cannot allege that his non-selection is wrong since the selection procedure is already done and the selection board has decided the issue. This Court finds no fault as pointed out by the learned Single Judge and neither malice nor any perversity is proved. In view of the same, the impugned order dated 25.05.2022 in case No. WP(C) No.333 of 2021 of the learned Single stands needs no interference and thus, affirmed.

[15] Accordingly, the appeal filed by the appellant stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

सत्यमेव जयते

CHIEF JUSTICE (ACTING)

A. Ghosh