

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 910 of 2021

Sri. Ranjib Nath (35),

Son of Sri Raicharan Nath, resident of South Nayapara, near Indian Oil Quarter, College Link Road, Ward No.-12, P.O. Dharmanagar, P.S. Dharmanagar, District-North Tripura, Pin-799250

---Petitioner

Versus

1. Union of India

Represented by Secretary of Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India, having its main office at Room No.524 (B-III), Antyodaya Bhawan, New Delhi-110003 .

2. The Secretary

Department of Empowerment of Persons with disabilities, Ministry of Social Justice and Empowerment, Government of India, having its main office at, Room No.524 (B-III), Antyodaya Bhawan, New Delhi- 110003.

3. The State of Tripura

Represented by Directorate of Education (Higher), having its office at Directorate of Secondary Education, 1st Floor, Shiksha Bhavan, Agartala, Tripura, Pin:799001.

4. The Director,

Directorate of Education (Higher), having his office at Directorate of Secondary Education, 1st Floor, Shiksha Bhavan, Agartala, Tripura, Pin: 799001

5. Tripura Public Service Commission,

Represented by the Chairman, Tripura Public Service Commission, having his office at Akhaura Road, Agartala, Tripura, Pin-799001

6. The Chairman,

Tripura Public Service Commission, having his office at Akhaura Road, Agartala, Tripura, Pin-799001.

7. The Member(s),

Tripura Public Service Commission, having his office at Akhaura Road, Agartala, Tripura, Pin-799001.

8. The Secretary

Tripura Public Service Commission, having his office at Akhaura Road, Agartala, Tripura, Pin-799001.

9. Sri Liton Mia,

Son of Lt Rafik Mia, Resident of Khilpara B.O, near Udaipur, Gomoti, Tripura, Pin-799114.

---Respondents

For the Petitioner(s)	:	Mr. M. Debnath, Advocate Ms. Sudipa Nath, Advocate
For the Respondent(s)	:	Mr. B. Majumder, Dy.SGI Mr. P. Roy Barman, Sr. Advocate Mr. D. Sarma, Addl. G.A. Mr. R. G. Chakraborty, Advocate Ms. N. Ghosh, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH

Order

30.03.2023

Heard Mr. M. Debnath, learned counsel alongwith Ms. Sudipa Nath, learned counsel appearing for the petitioner. Also heard Mr. B. Majumder, learned Dy. SGI appearing for the respondents-Union of India, Mr. P. Roy Barman, learned senior counsel assisted by Ms. N. Ghosh, learned counsel appearing for the respondent no.9, Mr. D. Sarma, learned Addl. G.A. appearing for the respondents-State and Mr. R. G. Chakraborty, learned counsel appearing on behalf of respondent-TPSC.

2. By filing this writ petition, the petitioner has challenged the selection and appointment of the respondent no.9 in the Post of Assistant Professor(Bengali). The selection process was conducted by the Tripura Public Service Commission(for short, 'TPSC').

3. In response to an advertisement, both the petitioner and the respondent no.9 submitted application. They were called for participating in the selection process and ultimately, respondent no.9 was selected for the post of Assistant Professor (Bengali) against the reserved quota meant for physically handicapped persons.

4. The petitioner has primarily challenged the writ petition on the ground that the respondent no.9 before appearing in the selection process had a conversation with the petitioner, wherein he disclosed that he was not suffering from any disability and he could walk, run and even he could play. The petitioner has stated this fact in paragraph 17 and 18 of the writ petition.

5. Having receipt of the notice, all the respondents including respondent no.9 appeared and denied the allegations of committing irregularities as averred in the writ petition. The respondent no.9 by way of filing counter affidavit specifically dealt with statements made by the petitioner that he had ever any conversation with the petitioner as regards his disability. The TPSC submitted counter affidavit.

6. In the writ petition, the petitioner also doubted the integrity of the certificate issued by the State Disability Board certifying the percentage of disability suffered by the petitioner.

7. On this background, Mr. Debnath, learned counsel for the petitioner has submitted that since the respondent no.9 was not suffering from any disability, the TPSC has committed serious error in selecting respondent no.9 to the post of Assistant Professor(Bengali).

Mr Debnath has firmly emphasized on the factum of conversation between the petitioner and the respondent no. 9.

8. Furthermore, Mr. Debnath, learned counsel for the petitioner has drawn my attention to the statement made in the affidavit by way of rejoinder submitted by the petitioner wherein it is stated that there are certain parameters prescribed by the Ministry of Social Justice and Empowerment under the guidelines dated 14.01.2018 (Gazette of India dated 05.01.2018) to assess the disability of a person.

9. According to learned counsel for the petitioner, the assessment made by the members of the State Disability Board falls short of the compliance of the said guideline.

10. On the other hand, Mr. R. G. Chakraborty, learned counsel for the TPSC-respondents contends that there was no irregularity in the selection process conducted by the TPSC. At no point of time, the disability certificate issued in favour of the petitioner was challenged by any of the candidates participating in the selection process.

11. Mr. D. Sarma, learned Addl. G.A. has submitted that the members of the State Disability Board are experts on this subject and the State-respondents had verified the certificate issued in favour of the respondent no.9 by the State Disability Board which was found to be genuine.

12. Mr. Roy Barman, learned senior counsel for the respondent no.9 submits that there is no cause of action at all in filing the instant writ petition. Drawing my attention to the counter affidavit, Mr. Roy

Barman, learned senior counsel submits that the respondent no.9 has categorically denied the statements of the petitioner made in paragraphs 17 and 18 of the writ petition, wherein, the petitioner alleged that he had a conversation with the petitioner before participating in their selection process. According to Mr. Roy Barman, learned senior counsel, it is clear from the certificate issued by the State Disability Board that the respondent no.9 has been suffering from disability to the extent of 50 percent. For the last several years, the respondent no.9 has been renewing the certificate from time to time and the last certificate was issued on 25.12.2018 and it is in the nature of “non-progressive” and “not likely to be improved”.

13. I have given my thoughtful consideration to the submissions advanced by learned counsel appearing for both the parties.

The conversation between the petitioner and respondent no.9 is a disputed question of fact which cannot be decided in this writ petition. Keeping in mind the submission of Mr. Debnath, learned counsel for the petitioner that the doctors concerned of the State Disability Board have not assessed the extent of disability of the person following the guidelines issued by the Government of India, I am of the opinion that this Court has no expertise to assess the extent of disability. The State Disability Board is constituted by the Government to make assessment of the extent of disability of a person. The doctors are experts on this subject. They had issued the certificate and assessed the extent of disability after examining the

physical condition of respondent no.9. This Court cannot take a different view than that of the view expressed by the Board. Moreso, the guidelines issued by the Government of Tripura, is not meant for the courts, it is for the doctors to follow the guidelines. There is no evidence that the doctors did not follow the referred guidelines.

14. In the light of the above discussions, I do not find any merit in the present writ petition and, accordingly, the same stands dismissed.

15. Lastly, I must say that Mr. M. Debnath, a very young lawyer deserves praise for his skill in presenting the case on behalf of the petitioner.

JUDGE

Rohit



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