

HIGH COURT OF TRIPURA
AGARTALA
W.A.No.43 of 2023

Dr. Sandip Saha,
son of Subhash Chandra Saha,
resident of Town Pratapgarh, Ramthakur Road,
Near Ramthakur Boys' School, Agartala,
West Tripura

---- Appellant(s)

Versus

1. The State of Tripura,
To be represented by the Principal Secretary/
Commissioner, Department of Higher Education,
Government of Tripura, New Secretariat Complex,
Khejurbagan, P.S. New Capital Complex, Agartala,
District-West Tripura, PIN-799010

2. The Director,
Department of Higher Education,
Government of Tripura, Siksha Sadan,
Office Lane, Agartala, West Tripura, PIN-799001

3. Tripura Public Service Commission (TPSC),
To be represented by Secretary, TPSC, Akhaura Road,
Agartala, West Tripura, PIN-799001

4. The Secretary,
Tripura Public Service Commission,
Akhaura Road, Agartala, West Tripura, PIN- 799001

5. Dr. Aditya Kumar Das,
son of late Sukumar Das,
Notice upon the Respondent No.5 may be served
Through the O/o the Secretary, Tripura Public Service
Commission, Akhaura Road, Agartala, West Tripura,
PIN- 799001

---- Respondent(s)

For Appellant(s)	:	Mr. P. Roy Barman, Sr. Adv. Mr. Samarjit Bhattacharjee, Adv.
For Respondent(s)	:	Mr. Raju Datta, Adv.
Date of Hearing	:	24.04.2024
Date of Judgment & Order	:	19.06.2024
Whether fit for reporting	:	YES

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Judgment & Order

[Mr. B. Palit, J]

This present writ appeal is preferred challenging the judgment and order dated 03.04.2023 passed by the Learned Single Judge in connection with Case No.WP(C). By the said judgment, the Learned Single Judge dismissed the writ petition filed by the appellant-petitioner.

2. Heard Mr. P. Roy Barman, Learned Senior Counsel assisted by Mr. Samarjit Bhattacharjee, Learned counsel appearing for the appellant-petitioner as well as Mr. Raju Datta, Learned Counsel appearing for the Tripura Public Service Commission, i.e. TPSC-respondent. Other respondents did not contest the appeal.

3. Before proceeding to the merit of the appeal, let us revisit the subject matter of the dispute for which the writ petitioner i.e. the appellant herein preferred the writ petition before the Hon'ble Single Judge. According to the appellant-petitioner, the Secretary, Tripura Public Service Commission, hereinafter referred to as the TPSC vide advertisement No.8/22 dated 24.08.2022 invited online application from bonafide citizen of India for selection of candidates for recruitment to 40 numbers of vacancies i.e. SC-05, ST-16, UR-19 on different subjects for the post of Assistant Professor, Group-A, Gazetted, Government General Degree Colleges, under the Education (Higher) Department, Government of Tripura. In the said advertisement, for the subject of Physical Education, 3 posts (SC-1, ST-1, UR-1) were advertised. The essential condition for the post of Assistant Professor, Group-A Gazetted, as per the advertisement was as follows :

(I) ESSENTIAL QUALIFICATIONS :

A.(i) A Master's Degree with 55% of the marks (or an equivalent grade in a point-scale wherever the grading system is followed) in a concerned/relevant/allied subject

from an Indian University, or an equivalent degree from an accredited foreign University.

(ii) Besides fulfilling the above qualifications, the candidates should have cleared the National Eligibility Test (NET) conducted by the UGC or the CSIR or a similar test accredited by the UGC, like SLET/SET or who are or have been awarded a Ph. D degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of M. Phil./Ph. D Degree) Regulations, 2009 or 2016 and their amendments from time to time as the case may be exempted from NET/SLET/SET:

Provided, the candidates registered for the Ph. D programme prior to July 11, 2009 shall be governed by the provisions of the then existing Ordinances/ By Laws/Regulations of the Institution awarding the degree and such Ph. D candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions :

- a) The Ph. D degree of the candidate has been awarded in a regular mode;
- b) The Ph. D thesis has been evaluate by at least two external examiners;
- c) An open Ph. D viva voce of the candidate has been conducted;
- d) The candidate has published two research papers from his/her Ph. D work, out of which at least one in a referred journal;
- e) The candidate has presented at least two papers based on his/her Ph. D work in conferences/seminars sponsored/funded/supported by the UGC/ICSSR/CSIR or any similar agency.
- f) The fulfillment of these conditions is to be certified by the Registrar or the Dean (Academic Affairs) of the University concerned.

(B) The Ph. D degree obtained from a Foreign University/Institution with a ranking among top 500 in the World University Ranking (at any time) by any one of the following :

- (i) Quacquarelli Symonds (QS) (ii) The times Higher Education (THE) or
- (iii) the Academic Ranking of World Universities (ARWU) of the Shanghai Jiao Tong University (Shanghai)

Note:- NET/SLET/SET shall not be required for such Masters Degree Programmes in disciplines for which NET/SLET/SET is not conducted by the UGC, CSIR or similar test accredited by the UGC, like SLET/SET. (e.g. Kokborok and Engineering discipline)“.”

4. In the advertisement it was also mentioned that selection procedure will be governed as per Annexure-A & B of the notified schedule for the post of Assistant Professor, Government General Degree College. Table-3B of the notified Schedule for the post of Assistant Professor, Government Degree College, provides for criteria for short listing of candidates for interview for the post of Assistant Professor in Colleges. Annexure-B of the notified Schedule for the post of Assistant Professor in Colleges provides selection procedure. It was further stated

that the overall selection procedure shall be transparent/objective & creditable methodology of analysis of merits & credentials of the applicants based on the weightage given to the performance of the different relevant parameters and his/her performance on a grading system proforma, based on Appendix-II, Table-3B of the UGC Regulations, 2018 as amended. It was a further case of the appellant-petitioners that academic score as specified in Annexure-II, Table-3B for Colleges, shall be considered for short listing of candidates (maximum-5 candidates for each Post notified) for interview. It was mentioned that TPSC shall constitute one Selection Committee and fix qualifying cut off marks, if any, for interview as per UGC Guideline, 2018 as amended time to time.

5. Thereafter, vide corrigendum dated 13.10.2022 issued by the TPSC, it was conveyed that Screening of API score would be followed by selection process of interview with the weightage of 15% & API Score weightage of 85% in adherence to the New Recruitment Policy, 2018 and further notification in the year 2020 & UGC Regulations, 2018. For the sake of convenience, Table-3B which provides for short listing of candidates is mentioned herein below :

Table:3B

Criteria for Short-listing of candidates for Interview for the Post of Assistant Professors in Colleges

S.N.	Academic Record	Score			
1.	Graduation	80% and above =21	60% to less than 80% =19	55% to less than 60% =16	45% to less than 55% =10
2.	Post-Graduation	80% and above =25	60% to less than 80% =23	55% (50% in case of SC/ST/OBC(non-creamy layer)/PWD)to less than 60% =2023	
3.	M. Phil.	60% and above =07	55% to less than 60% =05		
4.	Ph.D.	25			
5.	NET with JRF	10			
	NET	08			
	SLET/SET	05			
6.	Research Publications (2	06			

	marks for each research publications published in Peer Reviewed or UGC listed Journals)	
7.	Teaching/Post Doctoral Experience (2 marks for one year each)	10
8.	Awards	
	International/National Level (Awards given by International Organisations/Government of India recognized National Level Bodies)	03
	State-Level (Awards given by State Government)	02

#However, if the period of teaching/post-doctoral experience is less than one year then the marks shall be reduced proportionately.

Note:(A)

- | | | | | |
|-------|---------------------------|----------------|----------|-----------------|
| (i) | M. Phil. + Ph.D. | Maximum | - | 25 Marks |
| (ii) | JRF/NET/SET | Maximum | - | 10 Marks |
| (iii) | In awards category | Maximum | - | 03 Marks |

B. Number of candidates to be called for interview shall be decided by the college.

C.	Academic Score	= 84
	Research Publications	= 06
	Teaching Experience	= 10
	TOTAL	= 100

D. SLET/SET score shall be valid for appointment in respective State Universities/Colleges/institutions only."

6. The appellant was eligible for being considered for the post of Assistant Professor, Government (General) Degree Colleges in the subject of Physical Education as the appellant had all the requisite qualifications as mentioned in the said advertisement and accordingly, the appellant applied for the said post. It was also submitted that the appellant obtained Ph.D. in Physical Education from Annamalai University in 2015. Accordingly, the certificate has been issued by the concerned University. The appellant also served in two spells as Assistant Professor in Abhiruchi Institute of Physical Education, Sarusajai, Guwahati, affiliated to Guwahati University, w.e.f. 10.11.2014 to 25.07.2016 and again from 20.02.2017 to 06.01.2018. The Director of the said institution issued an Experience Certificate in his favor. The appellant also served as an Assistant Professor, at Lovely College of Physical Education, Punjab, w.e.f. 08.01.2018 to 02.07.2018. The Principal of the LPU issued certificate to the effect. It was further submitted that since 02.07.2018

to till date the appellant was serving as Assistant Professor, Health & Physical Education at Bhavans' Tripura College of Teacher Education. The Principal, of the said College has issued experience certificate to that effect. The appellant served as Assistant Professor of Lovely College of Physical Education, Jalandhar, Punjab, w.e.f. 08.01.2018 to 02.07.2018. In all the institutes the Appellant served in the UGC Scale as Assistant Professor.

7. The Under Secretary, TPSC, vide notification dated 13.10.2022 published extract of minutes of the Scrutiny Committee in connection with recruitment to the post of Assistant Professor, Government (General) Degree Colleges. In that notification, it was mentioned that the said minutes has been uploaded in TPSC website and all the candidates were instructed to go through the extract of minutes of the Scrutiny Committee and to submit representation with supporting documents, if any, to the Commissions' Secretariat within 19.10.2022 (5.30 pm). In the said notification, it was further clarified that in regard to Teaching/Post-Doctoral Experience (2 marks for 1 year each), candidates intending to claim such experience will have to submit documents strictly in conformity with the Clause-10.0 (Para 'a' to 'f' as the case may be) of the UGC Regulations, 2018. Failing which his/her Teaching/Post Doctoral Experience will not be counted. Along with the said notification, minutes of the Scrutiny Committee, regarding Academic Performance Indicator (API) Score/Academic Record/Research Performance of the candidates, in different subjects, were given. It appears that in the subject of Physical Education, in total 29 candidates including the appellant, applied for the said post and also in the said notification, the appellants API score vide application ID No.08/2022/0071 has been shown as 73.00. As per the notification maximum 5 candidates for each post notified will be called for interview

out of short listed candidates. As a result thereof, the appellant will not be called for interview because there are 5 candidates whose API score are above that of the appellant. On 13.10.2022, the TPSC has published list of provisional eligible candidates for interview for recruitment to the post of Assistant Professor, Government (General) Degree Colleges, vide Advertisement No.08/2022. In the said list, the appellant's name did not figure. According to the appellant, the Scrutiny Committee has failed to properly assess the appellant's Academic Performance and as a result thereof, the appellant has been deprived of correct and proper API score. The appellant submitted a representation on 19.10.2022 to the Secretary, TPSC, ventilating his grievances against the erroneously computed API score and for necessary correction of API score. In his representation dated 19.10.2022, the appellant submitted that his teaching experience has not been taken into consideration in course of finalization of API Score/Academic Record and Research Performance. Finding no way, the appellant preferred the writ petition before the High Court which was numbered as WP(C)No.906 of 2022 before the Hon'ble High Court with the following reliefs :

"i. Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to compute afresh the API score of the Petitioner after taking into account Teaching Experience & Award of the Petitioner, by giving & adding 10 marks & 2 marks (in total 12 marks) respectively to the Petitioner.

ii. Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing & cancelling the minutes of the Scrutiny Committee, constituted by the TPSC, for the subject of Physical Education in pursuance with the Advertisement No.08/2022, so far the API score of the Petitioner is concerned & to compute the API score of the Petitioner after taking into account Teaching Experience & Award of the Petitioner & thereafter to include the name of the Petitioner in the list of shortlisted candidates for the post of Assistant Professor (UR), Govt. General Degree College) in Physical Education."

8. Thereafter, after hearing both the sides, this High Court after considering submissions of the respondent Nos.1 to 4 vide order

dated 07.11.2022 passed in WP(C)No.906 of 2022 allowed the writ petition. The operative portion of the order runs as follows :

"Mr. Datta, learned counsel after perusing those salary certificates has fairly submitted that the marks against API, i.e. 10 marks should be included with the total marks awarded by Scrutiny Committee, that is, which, if added, would be 83 instead of 73.

I have considered the rival submissions of the learned counsel appearing for both the parties. It is directed that the TPSC shall add 10 marks as API score of the petitioner and short-list him so that he can appear in the selection process. It is also directed that TPSC would take interview of the petitioner."

9. It was further submitted that this High Court in the aforesaid order mandated the respondents TPSC that the TPSC shall add 10 marks as API score of the appellant and short-list him so that he can appear in the selection process. It was also mandated that the TPSC would take interview of the appellant. The appellant vide letter dated 21.11.2022 forwarded a copy of the order dated 07.11.2022 passed in WP(C)No.906 of 2022 to the Office of respondent TPSC, for compliance of the aforesaid order but the respondent did not take any step. Thereafter, the appellant filed contempt petition vide Cont.(C)No.05 of 2023. This High Court vide order dated 08.02.2023 disposed of the contempt case as during pendency of the contempt case, the respondent TPSC took the interview of the appellant. After that, the Controller of Examination, TPSC issued Provisional Admission Certificate in favour of the appellant asking him to appear before the Interview Board. By the said Certificate, the appellant was informed that in pursuance with the order dated 07.11.2022, passed by the Hon'ble High Court in WP(C)No.906 of 2022 interview/personal test for recruitment to the Post of Assistant Professor, Group-A (Gazetted), Government (General) Degree Colleges vide Advertisement No.08/2022 which will be held on 28.01.2023 and the appellant was asked to appear at interview/personality test, by reporting at 9.30 am of 28.01.2023. Thereafter, the Secretary, TPSC vide impugned notification dated

20.03.2023 recommended the name of Aditya Kumar Das i.e. the respondent No.5 for the post of Physical Education under UR category. From the said notification, it appears that total marks of the respondent No.5 was 81.85. It was further mentioned that total marks included API score 85% plus PI score 15%. Both are in weightage, i.e. in relative but not in absolute marks in terms of notification dated 05.03.2018.

10. As per minutes of the Scrutiny Committee regarding provisional API score, academic score, research performance of the candidate in connection with the recruitment to the post of Assistant Professor, Government (General) Degree Colleges vide Advertisement No.08/2022 the appellants API score was shown as 73.00. The appellant was not satisfied with the API score. As the appellant was deprived of 10 marks due to non counting of 10 marks for his teaching experience, the appellant filed WP(C)No.906 of 2022 and the Hon'ble High Court by order dated 07.11.2022, allowed the writ petition after holding that the appellant is entitled to adding of 10 marks as API score of 73 for his teaching experience. According to him, the total marks is higher than the respondent No.5 but the respondent No.5 has been recommended for the post of Assistant Professor, Government (General) Degree Colleges vide Advertisement No.08/202 depriving the appellant of being recommended of appointment to the said post.

11. It was further submitted the appellant's API after adding 10 marks in terms of the order of the High Court in connection with Case No.WP(C)906 of 2022 is higher than the respondent No.5. Moreover, the appellant also score better in the personal interview and got higher marks than the respondent No.5. But most arbitrarily, his name was not recommended by the respondent TPSC. So, again he filed WP(C)No.190 of 2023 challenging the recommendation made by TPSC vide notification dated 20.03.2023 recommending the name of respondent No.5 for

appointment to the post of Assistant Professor, Government (General) Degree Colleges in pursuance of the Advertisement No.08/2022. In the said case, the TPSC contested and Learned counsel for the TPSC placed the overall merit list of the candidates which is as follows :

Sl. No.	Name of Candidate	Father's Name	Category	Roll No.	API	85% of API Score	Marks obtained in Interview (Out of 15)	Total Marks obtained (Out of 100)	Remarks/ Age
1.	Dr. Aditya Kumar Das	Lt. Sukumar Das	UR	PHY_ EDU_ 0822 01	81.00	68.85	13	81.85	Recommended
2.	Sandip Saha	Subhash Chandra Saha	UR	PHY_ EDU_ 0822 15	83.00	70.55	10	80.55	Wait List 38-07-24
3.	Jitendra Singh	Kali Prasad Singh	UR	PHY_ EDU_ 0822 04	83.00	70.55	10	80.55	32-09-29
4.	Mohammad Gulam Sabir	Mohammad Mustafa	UR	PHY_ EDU_ 0822 07	81.00	68.55	9	77.85	
5.	Manas Das	Dhirendra Kumar Das	SC	PHY_ EDU_ 0822 06	70.00	70.00	7	66.50	Recommended
6.	Praloy Kanti Sarkar	Sri Nitai Lal Sarkar	SC	PHY_ EDU_ 0822 10	57.00	57.00	12	60.45	Wait List
7.	Tipu Sarkar	Arun Sarkar	SC	PHY_ EDU_ 0822 14	56.00	56.00	11	58.60	
8.	Becon Debbarma	Uttam Kumar Debbarma	ST	PHY_ EDU_ 0822 03	50.00	50.00	14	56.50	Recommended
9.	Sanjoy Sarkar	Harendra Chandra Sarkar	SC	PHY_ EDU_ 0822 12	54.00	54.00	10	55.90	
10.	Lalmangaihsanga Sailo	Biakchun gnunga Sailo	ST	PHY_ EDU_ 0822 05	50.00	50.00	13	55.50	Wait List
11.	Baris Rieng	Bhushan Rieng	ST	PHY_ EDU_ 0822 02	56.00	56.00	7	54.60	
12.	Parimal Debbarma	Late Mangal Debbarma	ST	PHY_ EDU_ 0822 08	50.00	42.50	7	49.50	

12. Finally, after hearing both the sides, Learned Single Judge dismissed the writ petition of the appellant-petitioner. The operative portion of the order of the Learned Single Judge runs as follows :

"12. In the light of aforesaid settled principles discussed in *Tajvir Singh Sodhi (supra)*, if the present case is considered, then, it comes to light that the petitioner herein neither has alleged any bias or favouritism or mala fide against the members of the Selection Committee nor has alleged any material irregularity in the constitution of the Selection Committee.

13. This Court does not find any procedural defects in the methodology adopted by the Selection Committee in selecting the best candidate i.e. respondent no.5 in the post of Assistant

Professor (Physical Education). The Selection Committee recommended the name of respondent no.5 as he obtained marks then that of the petitioner.

14. In the light of above observation and discussions, the present writ petition is dismissed being devoid of merit. However, there shall be no order as to costs.

Pending application(s), if any, also stands dismissed."

13. Challenging that, the present appellant has preferred this appeal. The TPSC also contested this case by filing the counter-affidavit on 31.08.2023. In paras-5 to 8 of the said counter-affidavit, the TPSC submitted as under :

"5. That with reference to the statements made in paragraph No.1(D) & 1(E) of the writ appeal, the answering respondents states that in the Paragraph No.4 & 5 of the Annexure-B of the Advertisement dated 24.03.2022 clearly states as follows:-

Selection Procedure for the post of Assistant Professor in Government(General) Degree Colleges, as per latest UGC Regulation.

"4. As per State's New Recruitment policy vide Notification No.F.20(1)-GA(P7T)?18 dated 05.06.2018, maximum of 10% weightage of total marks may be allocated for the Interview/Personality Test for selection purpose. Accordingly 10 marks for Interview/Personality Test is fixed for the post of Asstt. Professor, Govt. (General) Degree Colleges.

5. Merit list will be formed by TPSC aggregating the 90% of marks obtained by the candidate as per API score and Interview marks scored by the candidate and following other instruction in the latest guideline."

So, as paragraph No.4 & 5 of Annexure-B of the Advt. No.08/2022 dated 24.03.2022, maximum of 10% weightage of total marks for Interview/Personality Test was fixed for the post of Asstt. Professor, Govt. (General) Degree Colleges. Therefore, 10% is equal to 10 marks and Merit list would be formed by TPSC aggregating the 90% of marks obtained by the candidate as per API score and Interview marks scored by the candidate i.e. 90+10=100.

Thereafter the Tripura Public Service Commission published a Corrigendum on 12.04.2022 in connection with Advt.No.08/2022 dated 24.03.2022 and stated as follows:-

"Please read as per State's New Recruitment Policy vide Notification No.F.1(435)-DHE/Estt(G)/2019/266(4) dated 16.01.2021, maximum of 15% weightage of total marks may be allocated for the Interview/Personality Test for selection purpose in Sl. No.4 (Annexure-B). Other terms and condition will remain unchanged."

As per Corrigendum dated 12.04.2022, the Tripura Public Service Commission only modified 15% instead of 10% of total marks for the Interview/Personality Test. So, here 15% is equal to 15 marks.

Subsequently, the Tripura Public Service Commission published another Corrigendum on 13.10.2022 in connection with Advt. No.08/2022 dated 24.03.2022 and stated as follows:-

"Screening API score followed by selection process of Interview with a weightage of 15% and API score weightage of 85% in adherence of Now Recruitment policy, 2018 and further modification in 2020 and UGC regulation, 2018".

As per Corrigendum dated 13.10.2022, the Tripura Public Service Commission modified 85% of marks obtained by the candidate as per API score and Interview marks scored by the candidate as per API score and Interview marks scored by the candidate i.e.

85+15=100. A copy of the Annexure-B of the Advertisement dated 24.03.2022, copy of the Corrigendum dated 12.04.2022 and copy of the Corrigendum dated 13.10.2022 are annexed hereto and those are respectively marked as Annexure-R/1, R/2 & R/3.

6. That with reference to the statements made in paragraphs No.1(T) to 1(X) of the writ appeal, the answering respondents denies that the appellant's total marks would be higher than the respondent No.5 or that the respondent No.5 has been recommended for the post of Assistant Professor, Govt.(General) Degree Colleges, vide Advertisement No.08/2022, depriving the appellant of being recommended for appointment in the said post. The answering respondents further denies that the Appellant's API after adding 10 marks in terms of the Order of the Hon'ble High Court in WP(C) 906 of 2022 is higher than the respondent No.5 or that most illegally & arbitrarily the appellant was not recommended by the Respondent-TPSC. The answering respondents state that after completion of interview, the Tripura Public Service Commission prepared the Merit list b aggregating the 85% of marks obtained by the candidate as per API score and Interview marks scored by the candidate i.e. 85+15=100. The marks of the Respondent No.5 and the Appellant are as follows:-

Name	Roll No	Total API Score	80% of API Score	Marks obtained in Interview(out of 15)	Total marks obtained (out of 100)	Remarks
Respondent No.5	PHY_EDU-082201	81.00	68.85	13	81.85	Recommended
Appellant	PHY_EDU-082215	83.00	70.55	10	80.55	Wait List

The above-mentioned table was also reflected in paragraph No.6 of the impugned Judgment & Order (Oral) dated 03.04.2023 in WP(C) 190 of 2013 by the Hon'ble High Court. The answering respondents further state that out of 100 marks, the respondent No.5 obtained higher marks than that of the appellant and as such the name of the respondent No.5 had been recommended by the Tripura Public Service Commission and the name of the appellant was placed as a wait list candidate.

7. That the answering respondents state that out of total 100 marks 85 percent i.e. 85 marks are meant for awarding API score and the balance 15 percent i.e. 15 marks out of 100 is kept for interview. The API score of respondent no.5 is 81.00. Thereafter, 85% of total API score of 81.00 obtained by respondent no.5 is taken into account and it comes to 68.85. Moreover, the respondent No.5 obtained 13 marks in interview out of 15 marks and in total he obtained 81.85 marks. The API score of the Appellant is 83.00. Accordingly, 85% of the API score, is taken into account then, it comes to 70.55. But, the appellant obtained 10 marks in interview out of 15 marks and in total he obtained 80.55(70.55+10). Since, in total, the Respondent no.5 obtained higher marks (81.85) than that of the appellant, the name of respondent No.5 has been recommended by the Tripura Public Service Commission and the name of the appellant is placed as wait list candidate at Serial No.2.

8. That the answering respondents humbly states that clause-4 of Annexure-B with Annexure-A lays down the criteria for short-listing of candidates for interview for the post of Assistant Professor in colleges. Out of 100 marks, 85% marks is allotted to API score and 15 is left to personal interview. A combined reading of the Corrigendum dated 12.04.2022 and 13.10.2022 along with Annexure-B and A which are read with the terms of the advertisement No.08/2022 makes it evident that while out of total marks, 15 marks are allotted to interview while in computing the API score out of total marks obtained under the API category 85% weightage is only to be given. This formula has been devised by the Education (Higher) Department as per the State's New Recruitment Policy vide notification dated 05.06.2018 and followed by the TPSC as per its Corrigendum dated 13.10.2022 with the only difference that the interview marks would be 15 instead of 10. The answering respondent further states that laying down of a formula for recruitment

process lies in the domain of the administrative body or experts such as, the Tripura Public Service Commission and in the present case the application of the formula has been made in a non-discriminatory transparent manner to all the candidates. Moreover, Table 3B in itself indicates that weightage has been given on several categories such as, of the academic record for the reason that academic scores awarded by different Examination Boards and Universities cannot be said to be standardized across the country. It is the experience that some Examination Boards or Universities award higher percentage of marks to its students while some are more conservative in evaluation of papers. As such, in a criteria for evaluation by the Tripura Public Service Commission for recruitment to the post of Assistant Professor, Professor, Associate Professor in different colleges under the State, the Government Department and TPSC have consciously chosen to give a weightage criteria to the total API marks in such recruitment exercise which is 15 in this case, the whole purpose of personal interview would be defeated as 15% of even 15 marks could at best be 2.25. The answering respondents also states that on a construction of the terms of the advertisement, Table 3B at Annexure-A, the Corrigendum dated 12.04.2023 read with 13.10.2022, the formula devised by the Education (Higher) Department and the TPSC for evaluation of the API score, 85% of weightage is to be given whereas the marks scored in the personal interview has to be added in absolute terms. The above-mentioned formula adopted by the Tripura Public Service Commission has been approved by this Hon'ble High Court by a Judgment & Order dated 04.08.2023 passed in WP(C) 966 of 2022 "Dr. Sandeep Roy Sarkar Vs. The State of Tripura".

14. Finally, the TPSC prayed for dismissal of the appeal and urged for upholding the order of the Learned Single Judge.

15. In course of hearing of argument, Mr. P. Roy Barman, Learned Senior Counsel assisted by Mr. Samarjit Bhattacharjee, Learned Counsel appearing for the appellant submitted that the Learned Single Judge could not appreciate the subject matter of dispute properly as because regarding 85% of API score, the appellant has got no dispute but in respect of interview, the Selection Committee did not follow the prescribed rule made by TPSC for which the interference of this Court is required. He has also relied upon Annexure-A i.e. the criteria for short listing of candidates for interview for the post of Assistant Professor in Colleges and also the corrigendum dated 13.10.2022 issued by TPSC (Annexure-2) and submitted that the Selection Committee of TPSC did not adhere the rule framed by the TPSC itself and there action was contrary to their policy for which the present appellant inspite of having requisite marks was not selected for the post he applied for, rather, inspite of obtaining lesser marks, the respondent No.5 was selected by the Selection Committee of the TPSC most illegally but the Learned

Single Judge did not consider the same rather came to an observation that there was no any procedural defects in the methodology adopted by the Selection Committee and urged for allowing this appeal.

16. Per contra, Mr. Raju Datta, Learned counsel appearing on behalf of the TPSC-respondents submitted that the Selection Committee of TPSC has rightly selected the respondent No.5 after observing all formalities and there was no procedural defects. So, Learned Single Judge rightly dismissed the petition filed by the present appellant.

17. In course of hearing of argument, Mr. Datta, Learned Counsel has referred the Selection Procedure for the post of Assistant Professor in Government (General) Degree Colleges, as per latest UGC Regulation wherein it is prescribed that :

"ANNEXURE-B

Selection Procedure for the post of Assistant Professor in Government (General) Degree Colleges, as per latest UGC Regulation:

1. The overall selection procedure shall incorporate transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on the weightage given to the performance of the different relevant parameters and his/her performance on a grading system proforma, based on Appendix-II, Table 3B of the UGC Regulation, 2018 as amended.

2. The Academic score as specified in Annexure-II, Table 3B for Colleges, shall be considered for short-listing of the candidates (Maximum 5 candidates for each post notified) for interview.

3. TPSC shall constitute Selection Committee and fix qualifying cut off mark (if any) for interview as per UGC Guideline 2018 as amended time to time.

4. As per State's New Recruitment Policy vide Notification No.F.20(1)-GA(P&T)/18 dated 05-06-2018, maximum of 10% weightage of total marks may be allocated for the Interview/ Personality Test for selection purpose. Accordingly 10 marks for Interview/Personality test is fixed for the post of Asstt. Professor, Government (General) Degree Colleges.

5. Merit list will be formed by TPSC aggregating the 90% of marks obtained by the candidate as per API score and interview Page 7 of 17 marks scored by the candidate and following other instruction in the latest guideline.

6. Five members, including three subject experts, shall constitute the quorum of the Selection Committee."

18. During the course of submission, Mr. Datta, Learned Counsel has referred the corrigendum dated 13.10.2022 issued by the TPSC which reads as under :

CORRIGENDUM

Ref: Commission's Advt. No.08/2022 dated 24.03.22 for the post of Assistant Professor, Group-A Gazetted, Govt. (General) Degree Colleges under the Education (Higher) Department, Govt. of Tripura.

In pursuance of the notification dated No.F.1(435)-DHE/Estt/ (G)/2019/226(04) dated 16-01-2021 the Commission is pleased to issue corrigendum at para 5 of Annexure 'A' as Screening API score followed by selection process of interview with a weightage of 15% and API score weightage of 85% in adherence of New Recruitment Policy, 2018 and further modification in 2020 and UGC regulation, 2018. (enclo Notification).

Others terms and conditions will remain unchanged. For further information please visit www.tpsc.tripura.gov.in.

Sd/- (13.10.2022)
(Smt. K. Debbarma)
Under Secretary
Tripura Public Service Commission

19. Further, he has referred the notification dated 16.01.2021 issued by the Government of Tripura, Education (Higher) Department which provides as under :

NOTIFICATION

The Recruitment Rule for the post of Assistant Professor, Government (General) Degree Colleges has been notified vide No.F.1(435)-DHE/Estt(G)/2019 dated 27.08.2020.

In partial modification of the said Notification issued by this Department it is hereby notified that in the Point no.5 i.e. Method of recruitments whether by direct recruits or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various method appeared in the Schedule of the Recruitment Rules of the said notification, the following shall be substituted in place of the existing.

"100% by direct recruitment through TPSC.

Screening API score followed by selection process of interview with a weightage of 15% and API score weightage of 85% in adherence of New Recruitment Policy, 2018 and further modification in 2020 and UGC Regulation, 2018. Selection process is enclosed as Annexure-A".

This is issued with the concurrence of GA(P&T) Department vide their U.O. No.190/GA(P&T)/21 dated 13.01.2021.

Rest of the contents of the said Notification and Schedule shall remain unchanged.

By order and in the name of the Governor
Sd/-(16.01.2021)

Joint Secretary to the
Government of Tripura Education
(Higher) Department.

20. According to Mr. Datta, Learned Counsel, the weightage of 15% as mentioned in the notification may create some confusion but actually, it should be 15 but the appellant-petitioner came to an observation that that should be 15% and referring the merit list as stated above, he further submitted that after tabulation it appeared that the respondent No.5 secured more marks than the present appellant-petitioner, so his name was recommended by the Selection Committee and the appellant-petitioner secured lesser marks for which his case was not recommended for selection and there was no ambiguity to that. Finally, he has urged before this Court for upholding the judgment of the Learned Single Judge.

21. Here in this case, after hearing submission of both the parties, it appears as to whether the notification as relied upon by the parties if read together would mean granting weightage of 85% to API score and 15% in personal interview or not. The answer in this regard lies in Clause-IV of Annexure-B wherein it is stated that the criteria for short listing of candidates for interview to the post of Assistant Professor in Colleges. Out of 100 marks, 85% marks is allotted to API score and 15% is left for personal interview. If we read the notification dated 16.01.2021 and 13.10.2021 along with Annexure-B it appears that there would not be any doubt regarding allotting of 15 marks for interview while in computing the API score out of total marks obtained under API category, 85% weightage is only to be given. This formula has been revised by the Education Department as per the States New Recruitment policy vide notification dated 05.06.2018 followed by TPSC corrigendum dated 13.10.2022 with the only difference that the interview marks would only be 15 instead of 10 which has been also mentioned by the TPSC in their counter affidavit. Furthermore, the formula for selection lies within the domain of the administrative body or experts such as TPSC.

The Court does not have the jurisdiction to substitute a formula devised by such an expert body to its own.

Further, in para Nos.5, 6, 7 & 8 the above submission has been clearly explained by TPSC. It was further submitted that there was no malafides to that.

22. In order to support his case, Mr. Datta, Learned Counsel has referred some citations which reads as under :

In **Dalpat Abasaheb Solunke and Others versus Dr. B.S. Mahajan and Others** reported in **(1990) 1 SCC 305** the Hon'ble apex Court in para-12 of that judgment has observed as under :

"12. It will thus appear that apart from the fact that the High Court has rolled the cases of the two appointees in one, though their appointments are not assailable on the same grounds, the Court has also found it necessary to sit in appeal over the decision of the Selection Committee and to embark upon deciding the relative merits of the candidates. It is needless to emphasize that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the Candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the Constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the Court, the High Court went wrong and exceeded its jurisdiction."

In **M.V. Thimmaiah and Others versus Union Public Service Commission and Others** reported in **(2008) 2 SCC 119** the Hon'ble apex Court in para-21 of that judgment has observed as under :

"21. Now, comes the question with regard to the selection of the candidates. Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory Rules. The Courts cannot sit as an appellate authority to examine the recommendations of the Selection Committee like the Court of appeal. This discretion has been given to the Selection Committee only and Courts rarely sit in court of appeal to examine the selection of the candidates nor is the business of the Court to examine each candidate and record its opinion. In this connection, learned senior

counsel for the appellants has taken us through various following decisions of this Court :

- (i) Surya Dev Rai v. Ram Chander Rai & Ors. : AIR 2003 SC 3044
- (ii) P.M.Bayas V. Union of India & Ors. : (1993) 3 SCC 319
- (iii) Ashok Kumar Yadav & Ors. V. State of Haryana & Ors. Etc. : (1985) 4 SCC 417
- (iv) Ajay Hasia & Ors. V. Khalid Mujib Sehravardi & Ors. : (1981) 1 SCC 722
- (v) Union Public Service Commission v. S.Thiagarajan & Ors. : (2007)9 SCC 548

Mr. P.P.Rao, learned senior counsel appearing for the private respondents invited our attention to the following decisions of this Court.

- (i) Dr. G.Sarana V. University of Lucknow & Ors. : (1976) 3 SCC 583
- (ii) Mrs. Kunda S.Kadam v. Dr.K.K.Soman & Ors. : (1980) @ SCC 355
- (iii) Ashok Nagar Welfare Association & Anr. V R.K.Sharma & Ors. : (2002) 1 SCC 749

Learned Senior Counsel for the Commission invited our attention to the following decisions of this Court.

- (i) Union of India v. Mohan Lal Capoor & Ors. : (1973) 2 SCC 836
- (ii) Lila Dhar V. State of Rajasthan & Ors. : (1981) 4 SCC 159
- (iii) Ashok Kumar Yadav & Ors. V. State of Haryana & Ors. Etc. : (1985) 4 SCC 417
- (iv) R.S.Dass V. Union of India & Ors.etc. : 1986 (Supp) SCC 617
- (v) State of U.P. V. Rafiquddin & Ors. Etc. : 1987 (Supp) SCC 401
- (vi) Union Public Service Commission V. Hiranyalal Dev & Ors. Etc. : (1988) 2 SCC 242
- (vii) Mehmood Alam Tariq & Ors. V. State of Rajasthan & Ors. : (1983) 3 SCC 241
- (viii) Dalpat Abasaheb Solunke & Ors. V. Dr.B.S.Mahajan & Ors. : (1990) 1 SCC 305
- (ix) National Institute of Mental Health And Neuro Sciences v. Dr.K.Kalyana Raman & Ors. : 1992 Supp. (2) SCC 481
- (x) Indian Airlines Corporation v. Capt. K.C.Shukla & Ors. : (1993) 1 SCC 17
- (xi) P.M.Bayas v. Union of India & Ors. Etc. : (1993) 3 SCC 319
- (xii) C.P.Kalra v. Air India through its Managing Director, Bombay & Ors. : 1994 Supp. (1) SCC 454
- (xiii) Anil Katiyar (Mrs.) v. Union of India & Ors. : (1997) 1 SCC 280
- (xiv) All India State Bank Officers' Federation & Ors. V. Union of India & Ors. Etc. : (1997) 9 SCC 151
- (xv) Union of India & Anr. V. N.Chandrasekharan & Ors. : (1998) 3 SCC 694
- (xvi) Inder Parkash Gupta v. State of J & K & Ors. : (2004) 6 SCC 786
- (xvii) K.H.Siraj v, High Court of Kerala & Ors. : (2006) 6 SCC 395"

In **Manish Kumar Shahi versus State of Bihar and Others** reported in **(2010) 12 SCC 576** the Hon'ble apex Court in para-16 of that judgment has observed as under :

"16. We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the petitioner is not entitled to challenge the criteria or process of selection. Surely, if the petitioner's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The petitioner invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the petitioner clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition. Reference in this connection may be made to the judgments in *Madan Lal v. State of J&K* : (1995) 3 SCC 486, *Marripati Nagaraja v. Govt. of A.P* :(2007) 11 SCC 522, *Dhananjay Malik v. State of Uttaranchal*:(2008) 4 SCC 171, *Amlan Jyoti Borooah v. State of Assam*:(2009) 3 SCC 227 and *K.A Nagamani v. Indian Airlines*:(2009) 5 SCC 515."

In **Ramesh Chandra Shah and Others versus Anil Joshi and Others** reported in **(2013) 11 SCC 309** the Hon'ble apex Court in paras-18 & 24 of that judgment has observed as under :

"18. It is settled law that a person who consciously takes part in the process of selection cannot, thereafter, turn around and question the method of selection and its outcome.

24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents."

In **Tajvir Singh Sodhi and Others versus State of Jammu and Kashmir and Others** reported in **2023 SCC OnLine SC 344 in Civil Appeal Nos.2164-2172 of 2023 (@ Special Leave Petition(C)Nos.20781-20789 of 2021)** the Hon'ble apex Court in paras-65, 66 & 69 of that judgment has observed as under :

"65. Before proceeding further, it is necessary to preface our judgment with the view that Courts in India generally avoid interfering in the selection process of public employment, recognizing the importance of maintaining the autonomy and integrity of the selection process. The Courts recognize that the process of selection involves a high degree of expertise and discretion and that it is not appropriate for Courts to substitute their judgment for that of a selection committee. It would be indeed, treading

on thin ice for us if we were to venture into reviewing the decision of experts who form a part of a selection board. The law on the scope and extent of judicial review of a selection process and results thereof, may be understood on consideration of the following case law:

i) In **Dalpat Abasaheb Solunke vs. Dr. B.S. Mahajan**, AIR 1990 SC 434, this Court clarified the scope of judicial review of a selection process, in the following words:

"9...It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the selection committees and to scrutinize the relative merits of the candidates. Whether the candidate is fit for a particular post or not has to be decided by the duly constituted selection committee which has the expertise on the subject. The court has no such expertise. The decision of the selection committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the committee or its procedure vitiating the selection, or proved malafides affecting the selection etc....."

ii) In a similar vein, in **Secy. (Health) Deptt. Of Health & F.W. vs. Dr. Anita Puri**, (1996) 6 SCC 282, this Court observed as under as regards the sanctity of a selection process and the grounds on which the results thereof may be interfered with:

"9. ... It is too well settled that when a selection is made by an expert body like the Public Service Commission which is also advised by experts having technical experience and high academic qualification in the field for which the selection is to be made, the courts should be slow to interfere with the opinion expressed by experts unless allegations of mala fide are made and established. It would be prudent and safe for the courts to leave the decisions on such matters to the experts who are more familiar with the problems they face than the courts. If the expert body considers suitability of a candidate for a specified post after giving due consideration to all the relevant factors, then the court should not ordinarily interfere with such selection and evaluation....."

iii) This position was reiterated by this Court in **M. V. Thimmaiah vs. Union Public Service Commission**, (2008) 2 SCC 119, in the following words:

"21. Now, comes the question with regard to the selection of the candidates. Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an Appellate Authority to examine the recommendations of the Selection Committee like the court of appeal. This discretion has been given to the Selection Committee only and courts rarely sit as a court of appeal to examine the selection of the candidates nor is the business of the court to examine each candidate and record its opinion...

xxx

30. We fail to understand how the Tribunal can sit as an Appellate Authority to call for the personal records and constitute Selection Committee to undertake this exercise. This power is not given to the Tribunal and it should be

clearly understood that the assessment of the Selection Committee is not subject to appeal either before the Tribunal or by the courts. One has to give credit to the Selection Committee for making their assessment and it is not subject to appeal. Taking the overall view of ACRs of the candidates, one may be held to be very good and another may be held to be good. If this type of interference is permitted then it would virtually amount that the Tribunals and the High Courts have started sitting as Selection Committee or act as an Appellate Authority over the selection. It is not their domain, it should be clearly understood, as has been clearly held by this Court in a number of decisions.....”

iv) **Om Prakash Poplai and Rajesh Kumar Maheshwari vs. Delhi Stock Exchange Association Ltd., (1994) 2 SCC 117**, was a case where an appeal was filed before this Court challenging the selection of members to the Delhi Stock Exchange on the ground that the Selection Committee formed for the aforesaid purpose, arbitrarily favoured some candidates and was thus, against Article 14. This Court rejected the allegation of favouritism and bias by holding as under:

“5. ...the selection of members by the Expert Committee had to be done on the basis of an objective criteria taking into consideration experience, professional qualifications and similar related factors. In the present cases, we find that certain percentage of marks were allocated for each of these factors, namely, educational qualifications, experience, financial background and knowledge of the relevant laws and procedures pertaining to public issues etc. Of the total marks allocated only 20 per cent were reserved for interviews. Therefore, the process of selection by the Expert Committee was not left entirely to the sweet-will of the members of the Committee. The area of play was limited to 20 per cent and having regard to the fact that the members of the Expert Committee comprised of two members nominated by the Central Government it is difficult to accept the contention that they acted in an unreasonable or arbitrary fashion.....”

66. Thus, the inexorable conclusion that can be drawn is that it is not within the domain of the Courts, exercising the power of judicial review, to enter into the merits of a selection process, a task which is the prerogative of and is within the expert domain of a Selection Committee, subject of course to a caveat that if there are proven allegations of malfeasance or violations of statutory rules, only in such cases of inherent arbitrariness, can the Courts intervene.

69. It is therefore trite that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. In other words, simply because the result of the selection process is not palatable to a candidate, he cannot allege that the process of interview was unfair or that there was some lacuna in the process. Therefore, we find that the writ petitioners in these cases, could not have questioned before a Court of law, the rationale behind recasting the selection criteria, as they willingly took part in the selection process even after the criteria had been so recast. Their candidature was not withdrawn in light of the amended criteria. A

challenge was thrown against the same only after they had been declared unsuccessful in the selection process, at which stage, the challenge ought not to have been entertained in light of the principle of waiver and acquiescence."

In **Dr. Nitin Jaglal Untwal versus Union of India and Others** reported in **(2023) 6 AIR Bom R 365** the Hon'ble apex Court in para-21 of that judgment has observed as under :

21. The entire process was in fact based on the interview after the scrutiny was done by giving API score; in other words, there was no written examination. In *Lila Dhar v. State of Rajasthan* (1981)4 SCC 159 it has been observed that *Ashok Kumar Yadav v. State of Haryana* (1985)4 SCC 417.

"The competitive examination may be based exclusively on written examination or it may be based exclusively on oral interview or it may be a mixture of both. It is entirely for the Government to decide what kind of competitive examination would be appropriate in a given case. To quote the words of Chinnappa Reddy, J., 'in the very nature of things it would not be within the province or even the competence of the court and the court would not venture into such exclusive thickets to discover ways out when the matters are more appropriately left' to the wisdom of the experts. It is not for the court lay down whether interview test should be held at all or how many marks should be allowed for the interview test. Of course the marks must be minimal so as to avoid charges of arbitrariness, but not necessarily always. There may be posts and appointments where the only proper method of selection may be by viva voce test. Even in the case of admission to higher degree course, it may sometimes be necessary to allow a fairly high percentage of marks for the viva voce test. That is why rigid rules cannot be laid down in these matters by courts. The expert bodies are generally the best judges. The Government aided by experts in the field may appropriately decide to have a written examination followed by a viva voce test."

Therefore, when the Committee for selection that was enacted in the entire process was an Experts' Committee, then, now, the petitioner cannot have objection for the selection even on the basis of interview/viva voce."

In **Secy. (Health) Deptt. of Health & F.W. and Another versus Dr. Anita Puri and Others** reported in **(1996) 6 SCC 282** the Hon'ble apex Court in para-9 of that judgment has observed as under :

"9. The question for consideration is whether such sub-division of marks by the Commission on different facets and awarding only 2 ½ Marks for higher qualification can be said to be arbitrary? Admittedly, there is no statutory rule or any guideline issued by the Government for the Commission for the purpose of evaluation of merit of the respective candidates. When the Public Service Commission is required to select some candidates out of number of applicants for certain posts, the sole authority and discretion is vested with the Commission. The

Commission is required to evolve the relative fitness and merit of the candidate and then select candidates in accordance With such evaluation. If, for that purpose the Commission prescribes marks for different facets and then evaluates the merit, the process to evaluation cannot be considered to be arbitrary unless marks allotted for a particular facet is on the face of it excessive. Weightage to be .given to different facets of a candidates as well .as to the -viva voce test vary from service to service depending upon the. requirement of the service itself: In course of the arguments before as the learned counsel for the Respondent No. 1 had submitted that the awarding of 20 marks for viva voce and 20 marks for General Knowledge out of 100 marks must be held to be on the face of it arbitrary giving a handle to the. Public Service Commission to manipulate the selection and, therefore, the High Court had rightly come to the conclusion that it was arbitrary. We are unable to accept this contention. This Court in the case of *Ajay Hasia Etc. v. Khalid Majib Sehravardi and Others Etc.*, [1981] 1 S.C.C. 722, while considering the Case of selection, wherein 33% marks was the minimum requirement by a candidate in viva voce for being selected, held that it does not incur any consitutional infirmity. As has been stated earlier the expert body has to evolve some procedure for assessing the merit and suitability of the appellants arid the same necessarily has to be made only by allotting marks on different facets and them awarding marks in respect of each facet of a candidate and finaiiy evaluating his merit, it is too well settled that when a Selection is made by an expert body like public Service Commission which is also advised by experts having technical experience and high academic qualification in the field for which the selection is to be made, ihe courts should be slow to interfere with the opinion expressed by experts unless allegations of main fide are made established. It would be prudent and safe for the courts to leave the decisions on such matters to the experts who are more familiar with the problems they face than the courts. If the expert body considers suitability of a candidate for a specified post after giving due consideration to all the relevant factors, then the court should not ordinarily interfere with such selection and evaluation. Thus, considered we are not in a position to agree with the conclusion of the High Court that the marks awarded by the Commission was arbitrary or that the selection made by the Commission was in any way vitiated."

23. From the principles of the aforesaid citations referred by Mr. Datta, Learned Counsel for the TPSC-respondents and after going through the relevant records and also after hearing both the sides, we do not find any irregularity or illegality in the process of selection made by the TPSC for which the present appellant preferred the writ petition and in our considered view Learned Single Judge of this High Court after hearing the parties and after taking into consideration all aspects has rightly rejected the petition filed by the petitioner for which we do not find any scope to interfere with the judgment passed by Learned Single Judge of this Court.

In the result, the appeal filed by the appellant-petitioner stands dismissed being devoid of merit and considering the facts and circumstances of the case, no order is passed as to costs.

Pending application/s, if any, also stands disposed of.

JUDGE

JUDGE



Digitally signed by SABYASACHI
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Date: 2024.06.20 12:20:45 +05'30'

Sabyasachi B