

20.07.2022
KC(19)

F.M.A. 485 of 2019
Ananta Kumar Baidya
-versus-
State of West Bengal and Ors.

Mr. Arup Kumar Lahiri,
Mr. Udayan Datta.....For the appellant.

Ms. Chaitali Bhattacharya,
Mr. Subhendu Roychoudhury.....For the State.

Mr. Partha Sarathi Bhattacharjee,
Mr. Avirup Mondal,
Mr. A.Z. Mondal.....For the respondent
no. 9.

This has been a very hard fought appeal.

It relates to the selection process of 2016. At that time both the appellant and the private respondent (respondent no. 9) were assistant teachers in Government aided schools. The private respondent was selected as assistant headmaster. This was on the basis of his acquiring post-graduate qualification which makes an assistant teacher eligible for selection as assistant headmaster. The qualification was acquired prior to 2015, without obtaining the permission of the District Inspector of schools. The appellant has post-graduate qualification, with permission.

This selection process has been challenged by the appellant/writ petitioner.

According to the administrative instructions of the Government of West Bengal in force at the material point of time which were embodied in the circular dated 26th February, 2015 (at page 105 of the paper book) prior permission of the District Inspector of schools was not required before an assistant teacher could obtain a post-graduate qualification. The earlier circular of 21st June, 2012 (at page 104 of the paper book) directed that no marks would be awarded to candidates who had acquired such qualification without permission.

According to learned counsel for the appellant, at the time the private respondent acquired the qualification, permission was required. He had not obtained permission before acquiring the qualification and hence, was not eligible for consideration to be appointed as assistant headmaster. The further case run by learned counsel for the appellant was that the appellant and the private respondent's post-graduate qualification were considered by the selecting authority and that the marks awarded to the private respondent for such qualification should have been deleted.

It is quite clear that at the time the selection process was carried out, the 2015 circular was in force. Thus, a candidate having post-graduate qualification without permission was eligible. On that basis both the appellant and the private respondent have been awarded marks.

We find no irregularity in the selection process. In fact the selection process, in our opinion, has been carried out in all fairness.

Moreover, the private respondent has been carrying out the duties of assistant headmaster for about six years. It would be very improper and unjust to displace him from this position or to start a fresh selection process.

For all those reasons we find no merit in this appeal. The same is dismissed.

The impugned judgment of the learned single judge dated 14th November, 2018 is affirmed.

No order as to costs.

(I.P. MUKERJI, J.)

(SUBHENDU SAMANTA, J.)