

Item No.4

25.11.2021
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

WPA 74 of 2021
Pradip Karak
v.

The State of West Bengal & Ors.

Mr. Uday Sankar Chattopadhyay
Mr. Santanu Maji
... for the petitioner.

Mr. Subir Sanyal
Mr. Ratul Biswas
... for the Board.

The petitioner intends to be recruited as a primary teacher.

The National Council for Teacher Education (NCTE) has laid down the prescribed qualification in the notification dated 28th June, 2018 which is required for being appointed as primary teachers under the provisions of the Right of Children to Free and Compulsory Education Act, 2009. It mentions that the qualification will be graduation with at least 50% marks and Bachelor of Education (B.Ed.).

The petitioner is a scheduled caste candidate and in his case there is 5% relaxation in the qualifying percentage of marks, i.e. the scheduled caste candidate is required to obtain minimum 45% marks in the graduation examination.

The petitioner has scored 44.59% in graduation examination. The petitioner accordingly became unsuccessful in the selection.

According to the petitioner the principle of rounding off of marks ought to be applied and the petitioner ought to be treated as eligible for appearing in the examination.

The petitioner relies upon an unreported order dated September 15, 2015 passed by an Hon'ble Division Bench of the Allahabad High Court in the matter of Special Appeal Defective No. 607 of 2015, Ajeet Yadav & 6 ors. v. State of U.P. & 7 Ors with Special Appeal Defective No. 637 of 2015, Sitaram & 3 Ors. v. State of U.P. & 8 Ors. wherein the Court applied the principle of round off of marks in terms of the NCTE Guidelines.

The petitioner submits that the same principle ought to be applied in his case.

The learned advocate representing the West Bengal Board of Primary Education submits that there is no provision for relaxation of marks by way of round off.

The learned advocate appearing for NCTE also submits that there is no guideline at present for rounding off of marks for the purpose of relaxation.

The learned advocate representing the respondents relies upon the judgment delivered by the

Hon'ble Supreme Court in the matter of ***Taniya Malik v. Registrar General of the High Court of Delhi, reported in (2018) 14 SCC 129 paragraph 22*** which mentions that with regard to the question of rounding off of the marks, in our opinion, when a particular aggregate is prescribed for eligibility, a person must meet the criteria without relaxation. It is not permissible to enhance the marks by rounding off method to make up the minimum aggregate.

The aforesaid decision of the Hon'ble Supreme Court clearly lays down that enhancement of marks by way of relaxation is impermissible.

In the instant case the minimum requirement was obtaining 45% marks. The petitioner scored 44.59%, which is less than the marks prescribed in the eligibility criteria.

It is not open for the Court to grant relaxation by way of rounding off of marks by enhancing the marks obtained by the candidate to reach the prescribed minimum marks as mentioned in the advertisement.

If the prayer of the petitioner for relaxation is entertained by the Court, there will be several other similar circumstanced candidates who may come forward with their prayer for relaxation of the prescribed eligibility criteria. The same will open floodgates, which the Court should not permit.

In that view of the matter, no relief can be granted to the petitioner in this writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)