

09.02.2021

Ct. No.13

Sl. No.21

akd

W.P.A. 1436 of 2021 [via video conference]

[Dr. Subhra Jana -Vs- The Union of India & Ors.]

Mr. Saptangshu Basu .. Sr. Advocate
Mr. Satyaraj Banerjee
Mr. Syed Nurul Arefin
Ms. Saswati Chatterjee
... .. for the petitioner

Mr. Partha Ghosh
Mr. Tirthapati Acharyya
... for respondent nos.2 to 9

Ms. Koyeli Bhattacharyya
Mr. Subhrangsu Panda
... for the respondent no.10

Mr. Susanta Kr. Gangopadhyay
... for the respondent no.1

Satyendra Nath Bose National Centre for Basic Sciences (SNBNCBS) at Kolkata had published advertisement on 06.04.2020 for filling up four posts of Assistant Professors. The broad areas for appointment were - (i) Department of Astrophysics and Cosmology; (ii) Department of Chemical, Biological and Macro-Molecular Sciences and (iii) Department of Condensed Matter Physics and Material Sciences.

Applications were invited from persons with research interest in the areas of:-

- (a) Experimentalists in the areas of Quantum Materials, Quantum Optics/Photonics and Nano Devices;
- (b) Chemistry of Nano Materials, Functional Nano Materials and Devices and Computational Molecular Biology and

(c) Theoretical and Observational Astrophysics involving mega telescope observatories.

The Selection Committee considered the applications of a number of persons and appointed the respondent no.10 in the field of Astrophysics and Cosmology.

The principal grievance of the petitioner as evident from the writ petition is that the petitioner is far superior to the private respondent no.10 and a chart indicating, the number of journals published in the last five years, Patents, Ph.D. student produced, citations and awards are set out at paragraph 29 of the writ petition. The petitioner prayed before this court that the records of selection must be produced to ascertain as to what prompted the Selection Committee to select and appoint the respondent no.10 over and above the petitioner.

Mr. Saptanghsu Basu, learned senior advocate appearing for the petitioner would vociferously assert that by no stretch of imagination could the respondent no.10 be deemed superior to the petitioner even from a layman's reading of the comparative chart referred to hereinabove. Mr. Basu argued that there is no stipulation in the advertisement that experience in Astrophysics would be given weightage.

In the area of science and in particular recruitment to higher scientific and research posts, this Court is of the view that the subjective assessment plays a vital role. It is for an institute to assess at a given point of time their specific requirements, given the number of scientific projects being implemented on grants within the country or outside.

Hence, it would be inappropriate for a court of law specially under Article 226 of the Constitution of India, to either impose any decision or even venture to assess the propriety of the subjective decision taken by a scientific institute/organisation.

This Court is alive to the dicta of the Supreme Court that in public recruitment least emphasis and consequently least marks are reserved for viva voce and interview. The situation is, however, quite different in higher level scientific recruitment in Specialised Institutes.

It is now well settled that a decision making process alone can be questioned before a writ court and not the decision itself. There is no error indicated or deviation stated to have occurred from the Recruitment notice published by the institute.

It is equally well settled that if the decision making process as such cannot be faulted, the decision itself can be assailed on very limited grounds particularly where there is subjectivity involved in the selection process. At the risk of repetition it is stated that the existence of subjectivity, especially in scientific recruitments at higher level cannot be ruled out.

In any event, it is submitted by the institute that the petitioner would have qualified, if at all, for the post of Assistant Professor under the Chemical, Biological and Macro-molecular Sciences division given the experience, achievements and research of the petitioner. He submits that one Mr. Pradip Panchfule has already been recruited as Assistant Professor in the said division. The said Panchfule is stated to be more qualified and suitable for that position. The respondent no.10

has been chosen in the division of Astrophysics and Cosmology where Astrophysics and experience thereat is an obvious requirement and an advantage.

Mr. Basu has however, fairly submitted before this court that if Astrophysics is itself given weightage, his client would have no case to argue before this court.

This court, therefore, cannot find fault either with the decision taken by the Satyendra Nath Bose Institute in recruiting the respondent no.10 or with the non-recruitment of the writ petitioner.

Needless to mention and as clearly evident from the writ application particularly paragraph 29 thereof that the writ petitioner is indeed a highly qualified person and any observation made hereinabove or non-recruitment of the writ petitioner, should not in any way dishearten the petitioner. This court recognises the scientific ability of the petitioner. However, no relief can be granted to the petitioner in the instant writ application.

Hence, the instant writ petition must fail and is hereby dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rajasekhar Mantha, J.)