

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

The Hon'ble Justice Rajesh Bindal
And
The Hon'ble Justice Aniruddha Roy

W.P.S.T. 14 of 2020

Sri Malay Kumar Jana
vs.
The State of West Bengal & Ors.

For the Petitioner: Mr. Subrata Santra, Adv.

For the State: Mr. Tapan Kumar Mukherjee, Sr. Adv.,
Mr. Somnath Naskar, Adv.

Heard on: January 06, 2021

Judgment on: February 10 , 2021

ANIRUDDHA ROY, J.:

1. This writ petition has been filed challenging the impugned order dated August 29, 2019 (for short, 'the impugned order') passed by the West Bengal Administrative Tribunal (for short, 'the Tribunal') in OA No.50 of 2018 titled as Sri. Biswarup Samoi and another -versus- The State of West Bengal and others, by which the Original Application filed *inter-alia* by the writ petitioner stood dismissed.

2. In the said original application the writ petitioner herein, was the second applicant and the pro forma respondent herein was the first applicant before the Tribunal.
3. Pursuant to an advertisement of 2014 published by the West Bengal Health Recruitment Board, (for short 'the Board') bearing Advertisement No: R/MT/01/2014 the writ petitioner applied for recruitment for the post of Medical Technologist (Lab) Grade-III. The application was filed online and the writ petitioner was called for interview. The writ petitioner was not selected by the Board. The Petitioner being aggrieved by the said decision of the Board, as an unsuccessful candidate challenged the same before the Tribunal.
4. Mr. Subrata Santra, Learned Advocate, appearing for the writ petitioner referring to the necessary documents annexed with the writ petition submitted, that he had qualified the Bachelor of Science (B.Sc.) Degree prior to obtaining one year diploma course in Laboratory Technology and had submitted all the relevant mark sheets and/or certificates relating thereto before the Board at the time of interview. After the final result of the selection list was declared, the petitioner having found his name not being appearing therein, made enquiry as to the reasons for the same. The interview was held on May 4, 2016. On June 28, 2017 the petitioner applied to the appropriate authority of the Board under the provisions of Right to Information Act 2005, seeking information as to why his name had not appeared in the selection list. By a written communication dated July 13, 2017 the concerned

authority of the Board in response to the said letter of the petitioner dated June 28, 2017, informed that the petitioner though had completed one year Diploma Course in the Laboratory Technology but had not passed B.Sc. prior to having that certificate and accordingly his candidature was cancelled during the subsequent verification of documents.

5. Mr. Santra, learned counsel for the petitioner, then drew attention of this court on the document verification sheet appearing at page 66 of the writ petition. Referring to Serial No. 29 of the said document it was submitted that the Board while verifying the documents submitted by the candidates made necessary tick mark under the respective columns of the particulars of the candidate. Under Serial No. 29 of the said document the name of the petitioner was appearing, whereunder it appeared that under the column "PG Diploma Certificate and mark sheets, if any" some comment was written, the significance whereof was not known to the petitioner. It was further submitted, that the petitioner had duly submitted the necessary documents and particulars being the Diploma Certificate obtained by the petitioner in Medical Laboratory Technology from the Jadavpur University in 1997/1998 and documents relating to Bachelor of Science (B.Sc.) degree issued by the University of Calcutta in 1996. It was then submitted that despite having requisite qualification and despite producing the necessary documents which were duly accepted by the Board, the verification sheet contains a wrong recording showing that the necessary documents were not submitted by the petitioner. Relying upon the said wrong recording made in the document

verification sheet, the board illegally and wrongfully did not select the petitioner for the post of Medical Technologist and rejected his candidature though the petitioner was at the relevant point of time had the requisite qualifications for the same.

6. Mr. Tapan Kumar Mukherjee, Senior Advocate, learned Additional Government Pleader appearing for the State respondents submitted that the contention of the writ petitioner is wholly baseless, frivolous, and without any merit. The document verification sheet at page 66 of the writ petition reflects the correct position and there was no wrong or incorrect recording at all. The writ petitioner at the time of submitting the necessary documents which were required under the said invitation for recruitment failed to submit the same as mentioned in the said communication dated July 13, 2017. Since the writ petitioner did not qualify his B.Sc. Degree his candidature was cancelled during the subsequent verification of documents. He then argued that the Tribunal being the final fact finding authority had considered the submissions, case of the parties and the material before it and passed its order dated August 29, 2019, which is otherwise just, lawful and a speaking order. The order of the Tribunal, therefore, should not be interfered with.
7. It was further submitted that, the entire recruitment process was completed way back in the year 2016-17. Not even a single post remained vacant.
8. Heard Learned Counsels for the parties and perused the record.
9. From a close perusal of records, it appears, to this court that all the materials which were necessary for adjudicating of the said Original Application were

available before the Tribunal. The impugned order shows that the same was passed by the Tribunal after affording adequate opportunity of hearing to the parties and with due application of mind upon the materials before it. The Learned Tribunal being the last fact finding authority had duly scrutinized the materials before it and found that the requisite documents evidencing the necessary qualifications of the writ petitioner as required under the invitation of recruitment were absent before the Recruitment Board. On account of that deficiency the Recruitment Board came to a conclusive finding that the writ petitioner though had completed the one year Diploma in Laboratory Technology but did not possess degree of Bachelor of Science (B.Sc.) prior to obtaining the said Diploma. The writ petitioner contended before the Learned Tribunal that he had produced the requisite document evidencing his qualification of Bachelor of Science (B.Sc.) Degree, but he had failed to produce any concrete evidence to corroborate such contention, which could have negated the probative value of the entry made in the document verification sheet against the name of the petitioner.

10. The scope of exercise of jurisdiction under judicial review is very limited. While exercising the jurisdiction of judicial review under Article 226 of the Constitution of India, the Writ Court must not go for a detailed fact finding enquiry when such an exercise has already been done by the Tribunal. The writ court in exercise of its power under judicial review will principally look into the decision making process of the Tribunal and if it is found that there is any serious infirmity in such decision making process, namely, error in

exercise of jurisdiction, violation of principles of natural justice or the decision of the Tribunal is so perverse on the face of it that it shocks the conscience of the writ court, then only the writ court would intervene and interfere with the order of the Tribunal. Judicial review is not an appeal.

11. In the present case there had been no violation of principles of natural justice, neither, the parties had alleged any. The Learned Tribunal had also not committed any jurisdictional error. From the facts and submissions recorded in the impugned order it is clearly evident that the Tribunal had duly considered the material before it and did not find any merit in the arguments of the petitioner. Thus, there is no perversity in the impugned order.
12. Another aspect of the matter, which needs little discussion, in the facts and circumstances of the case, is that entire recruitment process of Health Recruitment Board had been completed long back. The writ petitioner, from the records and materials before this court seems to be not diligent enough to ventilate its grievance at the right juncture and he filed the Original Application before the Learned Tribunal after substantial period of time had elapsed after completion of the recruitment process. Hence, to pray for any equitable relief the right, if any, of the writ petitioner stood defeated.
13. In view of our foregoing discussions, no case is made out to interfere with the impugned order dated August 29, 2019 passed by the Tribunal.
14. In the light above, the writ petition being W.P.S.T. No. 14 of 2020 stands dismissed.

15. There will, however, be no order as to costs.

(Aniruddha Roy, J)

I agree.

(Rajesh Bindal, J.)