

21.12.2021

WPA 6319 of 2021

BP
SI 5
Ct. No.17

Rakesh Kumar Mandal
Vs.
The State of West Bengal & Ors.

Mr. Bikram Banerjee
Mr. Sudipta Dasgupta
Mr. Arkadeb Biswas
Mr. Arka Nandi
.....For the Petitioner

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey
.....For the SSC

1. The petitioner applied for the post of Assistant Teacher (Upper Primary Level) in response to advertisement made by the School Service Commission dated 23.9.2016. The petitioner was a TET qualified candidate. At the time of filing up the online application form the petitioner could not apply as a trained candidate as he did not receive the mark sheet and certificate for such qualification though he completed his diploma in elementary education for the session 2013-2015. Petitioner's case is that he was told by the commission subsequently to submit his training qualification at the time of verification of papers. He was called for verification on March 8, 2019 and appeared for the verification and submitted his training qualification. Subsequently he was called for interview and personality test. In the merit list his rank was 66.

2. In respect of said selection test for Assistant Teachers several writ petitions were filed and the entire selection process was set aside by this court. In the said writ applications it was directed by this court that the school service Commission would hold a fresh selection process of all the candidates who were found to be eligible under Rule 12 (2) and proceed onwards from that stage. Accordingly the commission issued a new notification dated 28.12.2020 for verification of documents. But when the petitioner again in terms of the notification dated 28.12.2020 submitted all the documents online he was not allowed to upload his training qualification.
3. The petitioner now wants that he should be allowed to submit his training qualification obtained before the date of advertisement. The School Service Commission has filed affidavit-in-opposition stating that the last date for making online applications, before the selection process was cancelled by the court, was 24th October, 2016. Though the commission accepted his training qualification, before cancellation of the recruitment process by the court, but after the cancellation when some new directions were given by this court to hold a fresh selection the commission became unable to accept the training qualification of the petitioner while complying with the order of this court in the said writ applications where under the selection process was cancelled. The commission has submitted that it acted strictly in terms of the advertisement/notification and as for the judgment delivered in the above mentioned writ applications on December 11, 2020 in the said

judgment of the court (in WPA 9597 of 2019) it was observed that the relaxation of the cut of date was not permissible. Therefore, the certificate and mark sheet obtained by the petitioner in respect of his training qualification could not be accepted by the commission while the process was started from the stage of verification by order of the court.

4. I have considered the submissions made by the parties and the judgment and order passed by this court on 11.12.2020 has been placed before me which also I have perused. In paragraph 30 of the said judgment such a direction was really given by this court to the central School Service Commission to hold a fresh selection process who were found to be eligible under Rules 12(2) and to proceed onwards from that stage.

Rule 12(2) of the West Bengal School Service Commission (selection for appointment to the posts of teachers for Upper Primary Level of School) Rules 2016 is as follows

Rule 12(2):

“The Central Commission after receiving application forms shall prepare list of eligible candidate for the purpose of preparation of a computer generated data base of all candidates”.

5. From the above Rule it is found that commission is to prepare the data base after receiving application forms and no power was given to the commission to accept some documents subsequently which were to be given at the time of receiving the applications. Therefore, the commission cannot be blamed for not allowing the petitioner to submit its training qualification when the fresh selection process was initiated who were

found to be eligible under Rule 12(2) and proceed onwards from that stage as has been mentioned in paragraph 30 of the above mentioned writ application.

6. Therefore, the prayer of the petitioner to accept his training qualification which he could not submit at the time of filing the application in Rule 12(2) stage cannot be allowed and therefore subsequently his qualification could not be accepted and he could not be called in interview.

7. Hence I find that the commission made no mistake in not accepting the training qualification of the petitioner at a stage subsequent to above referred Rule 12 (2) stage and therefore the writ application is dismissed.

(Abhijit Gangopadhyay, J.)