

07.09.2021
SL No.14
Court No.16
(gc)

WPST 39 of 2021

**Sanjeeb Ram Ganguly & Ors.
Vs.
State of West Bengal & Ors.**

(Via Video Conference)

Mr. Debojyoti Basu,
Mr. Anuran Samanta,
Mrs. Shahina Haque,
Mr. Anupam Das,
...for the Petitioners.
Mr. Biswabrata Basu Mallick,
Mr. Shayak Chakraborty,
....for the State.
Mr. Sohan De Dhara,
...for the Respondent No.13.

The original applicants in O.A.-362 of 2015 has filed the instant writ petition challenging the order dated March 4, 2020 passed by the learned 1st Bench, West Bengal Administrative Tribunal.

The writ petitioners have participated in the selection process for the year 2006 for the post of Lower Division Clerk, Group-‘C’ in the District Registrar Office, Burdwan. The writ petitioners claim to have appeared in the written test and being qualified were directed to appear in the interview. The writ petitioners appeared in the interview/viva-voce test. Since the writ petitioners were not given appointment, representations were filed. The writ petitioners claim that their names appear in the recast panel but without exhausting the recast panel, the authorities

advertised for filling up the post of LDC and LDA in the same department in the year 2013.

The writ petitioners have alleged that 13 candidates, who are the private respondent nos. 5 to 17 herein, have been appointed under the District Registrar, Burdwan thereby depriving the writ petitioners from getting employment. The writ petitioners challenged the action of the respondent authorities for giving appointment to the candidates who participated in the selection process of 2013 conducted by the West Bengal Staff Selection Commission without considering their candidature. The original applicants/ writ petitioners herein prayed for an order directing the respondents to give appointment as their names are appearing in the recast panel.

The State contested the original application by filing a reply relying on the report dated December 10, 2019. In the said report it has been stated that there were 40 vacancies in 2006 selection process. Out of the 40 posts 12 were old sanctioned posts and 28 vacant posts were for the year 2006. Out of the said 28 posts, 4 posts were filled up on compassionate ground and the selection of the candidates for 24 posts were distributed as - General-9, General PH-1, SC-5, ST-2 and OBC-2. It is the case of the State that the appointment to the said posts was done strictly in accordance with law and there was no illegality or arbitrariness in the matter of giving appointment.

We have heard the learned Advocates for the parties and have perused the materials on record.

Records reveal that one Santanu Sinha challenged the selection process of 2006 conducted by District Registrar, Burdwan for recruitment to the post of LDC by filing an Original Application No. 8572 of 2008 before the Tribunal. The Learned Tribunal by a judgment and order dated 24th August, 2010 held that the selection process was vitiated by act of arbitrariness so far as allotment of marks for oral test/viva voce are concerned. By the said order, the Tribunal directed the appointing authority to recast the panel by proportional reduction of marks to each and every candidate so far oral/viva voce is concerned keeping only 15 marks for viva voce or oral test and after recasting the panel, the appointing authority will decide the eligible candidates according to their merit position taking into account their total score both in the written test and oral/viva voce test.

In terms of the order passed by the Tribunal ultimately the recast panel was prepared. The writ petitioner nos. 1, 2 and 3 were placed at serial number 22, 33 and 45 respectively in the General category and the writ petitioner no. 4 was placed at serial no. 17 in the recast panel.

Records further reveal that the Directorate of Stamp Revenue and Registration, West Bengal had allotted 40 vacancies in 2006 including the vacancies declared for the year 2000. Out of 40 posts, 12 posts were from old sanctioned posts of 2000 which were not filled up. Thus, 28 posts were for the 2006 selection process. Out of 28 posts 4 posts were filled up on compassionate ground. Out of the 24 posts 9 were filled up by the General Category candidates

and 5 by the candidates belonging to the Scheduled Caste category. Since 9 candidates were to be appointed in the General category, the candidates who were placed under Serial Nos.1 to 9 were offered appointment and as the candidates against Serial Nos.3, 6 and 9 did not join, the next 3 candidates whose name appeared in Serial Nos.10, 11 and 12 were offered the appointment. Since 1 out of the aforesaid 3 candidates did not join, the candidate against Serial No.13 was offered appointment.

Insofar as the case of Iti Banerjee (Chatterjee) is concerned, it appears from the materials available in the record that she filed an original application being O.A.-572 of 2012 praying for re-examination of her answer-scripts. Such prayer of Iti Banerjee (Chatterjee) was allowed. The answers were re-examined and she was awarded an enhancement of three marks. Due to enhancement of marks, Iti Banerjee (Chatterjee) was placed above the Serial No.13 and she was, accordingly, given appointment. Thus, 9 posts available for General Caste candidates were filled up and since the writ petitioner Nos.1, 2 and 3 were placed at Serial Nos.22, 23 and 45, they were not considered for appointment to the said post.

The writ petitioner No.4 belongs to a Scheduled Caste category and he was placed under Serial No.17 in the recast panel under such category. Since only 5 posts were reserved in the Scheduled Caste category, the writ petitioner No.4 was not considered for appointment to the said post under such category.

It is evident from record that the selection process of 2006 was completed and the vacancies were filled up. The writ petitioners could not satisfy this Court that 86 vacancies pertain to that of the year 2006. The said 86 vacancies are of the year 2012 as rightly held by the Tribunal.

The respondent authorities initiated a fresh selection process in the year 2013 for filling up the vacancies that arose in the meantime. The writ petitioners' name appeared in the recast panel pertaining to the earlier selection process of 2006. Enlistment of the name of the petitioners in the panel for a particular selection process, which was completed and the vacancies were filled up, does not vest any right upon the petitioner to claim appointment in the vacancies that are sought to be filled up by the subsequent selection process.

The private respondents participated in the selection process of 2013 and they were recruited through such selection process. The writ petitioners did not participate in the selection process of 2013 and as such the writ petitioners do not have any right to challenge the appointment of private respondents.

The learned Tribunal, in our view, after taking into consideration the materials on record was justified in not accepting the claim made by the writ petitioners in the original application. The impugned order does not suffer from any infirmity.

The writ petition, being WPST 39 of 2021, accordingly, stands dismissed. There shall be, however, no order as to costs.

Pursuant to our earlier order dated August 10, 2021, the original records have been produced before us. We have perused the original records. Let the original records be sealed and thereafter transmitted to the Registrar, West Bengal Administrative Tribunal by the department concerned within two weeks from date.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)