

04.10.2021

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Sl. No. 11

Ct. No. 05

WPA 15004 of 2021
[Via Video Conference]

Muntazul Mondal & Ors.
-Vs.-
The State of West Bengal & Ors.

Mr. Kalidas Chakraborty

...for the petitioners.

Mr. Bhaskar Prasad Vaisya

Mr. Ranjan Saha

..... for the State

Mr. Lakhkhi Kr. Gupta

Mr. Ratul Biswas

..... for respondent Nos. 3,4 and 5

There are 30 candidates who have jointly filed the present writ petition claiming the benefit of office memorandum dated 26th February, 2013 issued by the Deputy Secretary, Government of India, Ministry of Social Justice and Empowerment, Department of Disability Affairs as well as the memo dated 28th March, 2013 issued by the Secretary, Government of West Bengal, School Education Department addressed to the President, West Bengal Board of Primary Education relating to grant of additional time to differently abled candidates who participated in TET-2017 held on 31st January, 2021. Mr. Kalidas Chakraborty, learned advocate, appears on behalf of the writ petitioners and submits that though specific provisions have been made in the said office memorandum dated 26th February, 2013 specially in Clause XI relating to grant of compensatory time of not less than 20 minutes per

hour for examination of differently abled candidates who use scribe/reader/lab assistant during the examination and also to the differently abled candidates who did not avail the facility of scribe while participating in the examination. In consonance with the said office memorandum dated 26th February, 2013, it is submitted that there was a communication dated 28th March, 2013 issued by the Secretary, Government of West Bengal addressed to the President, West Bengal Board of Primary Education on grant of extra time to differently abled candidates in the recruitment test of primary teachers provided the candidates were duly certified as physically challenge candidate with 40% or more than 40% disability. It is contended on behalf of the writ petitioners that in spite of provisions as contained in office memorandum dated 26th February, 2013 as well decision to extend the benefit of extra time taken in favour of the examinees for participation in recruitment test for appointment in the post of primary teacher such benefit of extra time was not allowed to them. It has been specifically prayed for in this writ petition that since the benefit of extra time has not been allowed to the writ petitioners being differently abled candidates fresh opportunity may be given to the writ petitioners by making necessary arrangement for holding TET-2017 again.

Mr. Lakhkhi Kr. Gupta, learned senior advocate, appears on behalf of the West Bengal Board of Primary Education and submits that writ petitioners participated in TET-2017 which was held on 31st January, 2021 and the writ petition was filed on 18th September, 2021 praying for holding of TET-2017 afresh since extra time was not allowed in favour of the writ petitioners being differently abled candidates. It has been contended that though TET-2017 was conducted on 31st January, 2021 but contemporaneously no representation/complaint was made before the concerned authorities of the West Bengal Board of Primary Education questioning failure on the part of the Board to allot additional time to the writ petitioners in TET-2017 in terms of the office memorandum dated 26th February, 2013. In addition thereto, it has been submitted on behalf of the Board that vide memo dated 22nd January, 2021 issued by the Secretary, West Bengal Board of Primary Education addressed to the Chairman of all District Primary School Councils as well as District Inspectors of Schools(PE), of all Districts in the State to follow the guidelines forwarded by the School Education Department, Government of West Bengal circulated vide memo dated 14th August, 2015 for taking necessary steps for use of scribes by the differently abled candidates and allotment of additional time. Placing

reliance upon these memo dated 22nd January, 2021 as well as 14th August, 2015, Mr. Gupta, learned senior advocate, has specifically submitted before this Court that the differently abled candidates who participated in TET-2017 were allowed to use scribe if necessary as well as extra time was allowed to them in terms of the relevant guidelines in the event those candidates who did not avail of the service of scribe.

This Court has considered the rival submissions of the learned advocates representing the parties and also considered the office memorandum dated 26th February, 2013 as well as the memo dated 28th March, 2013 issued by the Secretary, School Education Department, Government of West Bengal, and finds on considering the submissions made on behalf of the Board that the steps were taken for implementation of the guidelines which was issued in terms of the said office memorandum dated 26th February, 2013

In addition thereto, on consideration of the facts, it appears that the writ petitioners approached this Court by filing the present writ petition on 18th September, 2021 whereas TET-2017 was held on 31st January, 2021 and it is also found that no contemporaneous complaint/representation was preferred by the writ petitioners before the respondent authorities ventilating the grievance that the extra time in terms of the relevant guidelines was not allowed to

the writ petitioners. After approximately 8 months of holding TET-2017, it is impracticable for the Court to find out whether at all the guidelines relating to grant of benefit of extra time was provided to the writ petitioners upon factual enquiry of the entire issue in view of the considerable delay made by the writ petitioners in approaching the Court as well as failure on their part to make necessary complaint/representation before the concerned authorities in this regard.

Accordingly, this Court finds no merit in the writ petition and the same stands dismissed.

There shall be no order as to costs.

Affidavit-of-service filed in Court today be kept with the record and the memo dated 22nd January, 2021 and 14th August, 2015 are also taken on record.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

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

(Saugata Bhattacharyya, J.)