

22.07.2022

WP.ST 11 of 2022

Court : 04
Item : 5
Matter : WP.ST
Transcriber : PIYA (PA)

Ranadip Chandra
Vs.
The State of West Bengal & Ors.

Mr. Robiul Islam, Advocate

Mr. SK. Jayed Hossain, Advocate

.....for the Petitioner

Ms. Chaitali Bhattacharya, Advocate

Ms. Sanjukta Samanta, Advocate

.....for the State

Mr. Pradip Kumar Roy, Advocate

Mr. Joydeep Roy, Advocate

.....for the P.S.C.

The writ petition is directed against an order dated 25.01.2022 passed by the Ld. West Bengal Administrative Tribunal, refusing to pass an interim order for change of place of posting.

Petitioner's case:-

Advertisement No. 23/2019 of the Public Service Commission for the post of appointment of Librarian in Government Colleges was published.

The petitioner applied for the said post having the requisite qualifications.

The petitioner was selected (Serial no. 8) and was recommended for the post of Librarian for Banarhat Hindi College.

The said Advertisement no. 23/19 mentioned under clause (iv) of "qualification essential" as follows:

(iv) "Proficiency, spoken and written in Bengali and English are required for all Colleges except Banarhat Hindi College for which proficiency in Hindi and Bengali is required."

It is submitted by the petitioner that he does not

have proficiency in **writing Hindi** and as such he is not eligible for appointment as Librarian in Banarhat Hindi College. In spite of the said declaration he has been recommended for the said post.

It is further stated by the petitioner that having ranked 8th he was not given any choice of appropriate College, but candidates with rank lower than him have been recommended for suitable general Colleges.

Further case of the petitioner is that in spite of not having the requisite eligibility he was recommended for appointment as Librarian in Banarhat Hindi College.

The petitioner then made a representation but the petitioner's prayer for being recommended for a general College was not acted upon by the authority.

The petitioner then filed an O.A. being 10/2022 before the West Bengal Administrative Tribunal praying for **change of posting**.

The Tribunal considering the matter and prayer refused to pass an interim order by holding that **"Prima facie it appears the applicant in degree level had Hindi as a "subject taken" no interim order is passed."**

It is on record that the "Petitioner completed his Bachelor of Science (Three Years' Degree Course) from Vinoba Bhave University at Jharkhand and had Hindi as a first subject in that level, no interim order may be passed."

Grounds in Appeal

- a) Petitioner does not have proficiency in **writing Hindi** as was required for Banarhat Hindi College, as per advertisement and he had given his declaration to that effect.
- b) According to the rank (8th) secured, the

petitioner should have been recommended to a general College.

- c) As the petitioner has not stated that he can **write** Hindi, as required under Advertisement no. 23/2019 he should not have been recommended for Banarhat Hindi College but to a general College.

View of the Tribunal:-

The Tribunal considered the petitioner's prayer for change of place of posting but refused to pass any interim order on the prima facie findings that **"the applicant in degree level had Hindi as a subject taken."**

Facts:-

Advertisement No. 23/2019 of the Public Service Commission for the post of Librarian in Government Colleges had the NB:-

"ABILITY TO READ, WRITE AND SPEAK IN **BENGALI** is an essential requirement but not mandatory for candidates whose mother tongue is Nepali....."

Essential qualifications required as per the Advertisement is noted under:-

No. (iv) Proficiency, spoken and written, in Bengali & English are required for all Colleges except **Banarhat Hindi College for which proficiency in Hindi & English are required.**

The **Information** provided along with the said advertisement under number 4 is very relevant in this case.

No.4 provides: That the prescribed 'essential qualifications' are the minimum and mere possession of

the same does not entitle applicants to be called in for the interview. Where the number of applications received in response to the advertisement is large and it is not convenient or possible for **the Commission to interview all the applicants the Commission may restrict the number of candidates for interview to a reasonable limit on the basis of either higher qualifications in the relevant subjects/higher standard of marks/grade obtained in the essential qualifications or experience in relevant field higher than the minimum prescribed in the advertisement or on the basis of a Screening Test.**

The writ petitioner **RANADIP CHANDRA's Application** form shows his Academic qualification among others as follows:

Examination	Examination Name	Year of Passing	Name of University	Subjects Taken	Division/Class/Grade	Marks%
Degree	Bachelor of Science (General) (Three Year Degree Course)	2003	Vinoba Bhave University	Hin, Eng, Phy, Che, Math, Gen. Stu.	1 st	61.58
Post Graduation	Master's Degree in Library Science	2007	Jadavpur University	Library and Information Science	2 nd	59.22
Bachelor of Library and Information Science	Bachelor of Library and Information Science	2005	Jadavpur University	Library and Information Science	1 st	64.38

The petitioner in his application has declared that **he has also qualified NET, and Ph.D in Library Science.**

At the time of hearing, the petitioner's case before the court was that "he has been posted in the Banarhat Kartick Oraon Hindi College, Jalpaiguri where proficiency in Hindi and English is required and since **he cannot**

write Hindi (despite having opted for the Hindi subject in the Degree course) he has been discriminated with the other candidates, who have filled up all the columns pertaining to Hindi proficiency.

The Public Service Commission was directed to produce the applications of all other candidates under the same category.

The Commission produced the relevant application forms of the other 25 candidates. On perusal of the said applications it is seen that some of them have marked all columns that is Read, Write and Speak.

Some including the petitioner have marked only Read and Speak. The column as to 'write' has been left blank. From the Applications of all the 25 candidates including that of the petitioner, **it is found that the petitioner alone had 'Hindi' as a subject in his degree level from Vinoba Bhawe University, Jharkhand and secured 61.58% (1st Class).**

No other candidate is found to have better/higher qualification than the petitioner (Hindi at the degree level).

The **General category rating policy** is as follows:-

Highly Qualified:-

The Higher category will be used for those candidates who possess the type and quality of experience that substantially exceeds the minimum qualifications of the position, including all selective placement factors and appropriate quality ranking factor(s) as determined by the job analysis.

Well-Qualified:-

The next lower category (Well-Qualified) will be

used to for those candidates that meet the minimum qualifications of the position and are proficient in some, but not all, of the requirements of the position.

Announcements:- (In this case Advertisement no. 23/2019)

For each position to be filled, **the job opportunity announcement** must clearly define the categories each applicant will be assessed against based on the competencies **directly related to the job**.

Ranking:-

Assessed applicants will be placed in the appropriate quality category and ranked according to preference eligibility and non-preference eligibility. Within each category, all qualified preference eligibles are placed ahead of non-preference.

In Advertisement 23/2019 it was clearly published/announced under essential qualification.

(iv) proficiency, spoken and written, in Bengali & English are required for all Colleges except Banarhat Hindi College for which proficiency in Hindi & English are required.

Information in the said advertisement is also very clear under point no. 4 in respect of higher qualification.

Point no. 4:- The prescribed 'essential qualifications' are the minimum and mere possession of the same does not entitle applicants to be called in for the interview. Where the number of applications received in response to the advertisement is large and it is not convenient or

possible for the Commission to interview all the applicants, the Commission may **restrict the number of candidates for interview to a reasonable limit on the basis of either higher qualifications in the relevant subjects**/higher standard of marks/grade obtained in the essential qualifications or experience in relevant field higher than the minimum prescribed in the advertisement or on the basis of a Screening Test.

As such the Commission keeping in terms as published in the said advertisement **recommended the petitioner (Best qualified and Most suitable)** to Banarhat Hindi College.

It has been clearly notified that “.....the number of candidates for interview to a reasonable limit on the basis of either **higher qualifications** or experience.....”

It is unbelievable that a candidate having acquired a degree with ‘Hindi’ as one of the subjects from Vinoba Bhave University, Jharkhand and having got a 1st class with 61.58% marks, does not know to write Hindi.

The declaration given by the petitioner in his application form that he **cannot “write” Hindi** inspite of his degree in Hindi as one of the subjects goes to prove that the petitioner intentionally gave the said declaration **to avoid** being posted or recommended for Banarhat Hindi College.

The petitioner was well aware that proficiency in Hindi and English was required for Banarhat Hindi College, as specific announcement to that effect had been made in the said advertisement.

It can be presumed that the petitioner, with the hope of being recommended to a general/suitable

College if selected, left the column of 'write' blank to avoid being posted/recommended at Banarhat Hindi College.

But it so happened that no other candidate had 'Hindi' as a subject at the degree level, thus making the petitioner 'the Best and the Most suitable' with the highest qualifications for being recommended, for Banarhat Hindi College.

The petitioner herein is the only candidate with Hindi as a subject at the degree level.

Thus, the petitioner being the Best and Most suitable candidate has been rightly recommended for Banarhat Hindi College.

Considering the said facts and the reasons above, this court finds no merit in the petitioner's case and thus finds no irregularity in the Tribunals order and no reason to interfere with the order under appeal.

Writ petition thus stands **dismissed**.

No order as to cost.

Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)

