

11.07.2022

WPST 24 of 2022

Court : 04
Item : 33
Matter : WPST
Status :
DISMISSED
Transcriber: nandy

Riya Singha & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Firdous Samim, Advocate
Ms. Gopa Biswas, Advocate

.....for the Petitioners

Mr. Tapan Kumar Mukherjee, Advocate
Mr. Pinaki Dhole, Advocate
Ms. Debdooti Dutta, Advocate
Mr. Rajat Dutta, Advocate

.....for the State

Mr. Pradip Kumar Roy, Advocate
Mr. Joydeep Roy, Advocate

.....for the Respondent Nos. 6, 7 & 8

Some unsuccessful candidates approached the Tribunal challenging the selection process on multiple grounds including change of decision in the midst thereof. The selection process consists of three stages i.e. Part-I examination, Part-II examination and Computer Typing Test followed by the verification of the documents.

There is no ambiguity to the process of selection indicated in the advertisement issued by the competent authority. However, dispute appears to have been squeezed on the 'Frequently Asked Questions' appended to such advertisement, more particularly, when the authority decided to call a greater number of candidates for computer typing test what has been indicated therein.

According to the petitioners, the candidates who have completed Part-I and Part-II examinations

successfully, shall be called as per the number of notified vacancies and, therefore, any variation in the midst of the selection process i.e. 1:1.4 basis tantamount to change of rule in the midst of the game. Our attention is drawn to the Notification dated September 22, 2021 where the selecting authority after receiving several objections decided to revisit the list published for computer typing test followed by a further Notification dated September 30, 2021 wherein in the events of a tie in the marks obtained in Part-I and Part-II examinations, the selection would be made firstly on a higher marks obtained in Part-I examination and even in such event if there is a tie, the higher marks obtained in English in Part-II examination and thirdly, by taking the seniority in age.

Before the Tribunal the only point which was agitated for the purpose of an interim order, relates to calling the number of candidates for computer typing test in not commensurate with the vacancies but more candidates were called in this regard. The Tribunal found that the computer typing test is going to be held shortly and, therefore, there is no question of any interim order to be passed at that stage and directed the parties to exchange affidavits in the meantime.

This writ-petition is filed challenging the said order by which the interim order was refused by the Tribunal and a further point as indicated above, is sought to be taken, more particularly, that the rule cannot be changed once the game is allowed to be played.

The first and foremost thing which we feel that when the zone of consideration is enlarged, despite that the writ-petitioners could not secure berth within the zone of consideration, no prejudice appears to have been caused and, therefore, merely on the ground that rule of game is changed after the game is played, the Court shall pass an interim order withholding the entire selection process, is not acceptable. Furthermore, the authority after receiving the objections, revisited the results so published on the basis of the tabulation having made, which cannot be said to be changing the rule of the game. The moment the authority found that the objections have some bearing and discrepancies have been made patent, such mistakes cannot be allowed to be perpetuated for all time to come and if any decision for rectification have been taken, it cannot be construed as changing the rule of the game in the midst of the game. Furthermore, the Notification dated September 30, 2021 is restricted to a case where the candidates secured identical marks in Part-I and Part-II examinations and the modalities to be adopted to resolve the aforesaid impasse.

The pleadings made in the writ-petition does not evince that the petitioners have secured the identical marks with several other candidates and have been kept out of the zone of the participation in a Computer Typing Test. There is no prejudice appears to have been caused to the writ-petitioners and, therefore, we do not find that it was a fit case for passing an interim order without calling for affidavits.

The matter is pending before the Tribunal and after the exchange of affidavits, the Tribunal would take a decision whether any interim order is required to be passed in the matter.

We do not find any illegality in the impugned order passed by the Tribunal. However, we find that the litigation has been unnecessarily prolonged on unsubstantiated issues and, therefore, it is a fit case where the costs is required to be imposed.

Accordingly, **WPST 24 of 2022** is **dismissed with costs** assessed at **Rs.15,000/-** to be deposited with the State Legal Services Authority within two weeks from date.

If such deposit is made within the time indicated above, the SLSA shall keep the said amount in an account earmarked for juvenile.

The Tribunal shall not proceed with the application unless the petitioners shows that they had deposited the costs imposed in the instant writ-petition.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)

