

31. 08. 2022

BP
Sl. 10
Court No. 17

WPA 4931 of 2022

Kousick Mondal
Vs.
The State of West Bengal & Ors.

Ms. Sumita Sen
Mr. Ratul Biswas
..for the petitioner.

Mr. Swapan Kumar Dutta
Mr. Rajat Dutta
..for the State

Mr. B.P. Vaisya
Mr. Pinaki Bhattacharya
..for DPSC, North 24 Parganas

The case of the petitioner is that he appeared in the selection process for the post of assistant teacher in primary school in 2009. When he applied for the post, though he was a Scheduled Caste candidate and enjoying benefits under the Scheduled Caste persons issued by Backward Classes Welfare Department as appears from pages 21 and 22, he did not have the Scheduled Caste certificate. He got the Scheduled Caste certificate on 04.08.2014.

The 2009 recruitment procedure started de novo by order of the Government dated 21st June, 2012. He participated in the examination on 19th November, 2014. When the result was published on 8th January,

2021 by order of this court and the panel was published for all categories of candidates on 10th February, 2021, the petitioner found that his name was not in the panel. He filed one Right to Information application wherefrom he came to learn that his total score was 27.09. The total score of the last empanelled of the Scheduled Caste candidate was 26.44. Thus the petitioner, if were considered as a Scheduled Caste candidate, got higher marks than the last empanelled candidate of the Scheduled Caste. The petitioner has submitted that he produced all documents including his Scheduled Caste certificate on the date of verification i.e. on 19.11.2014 but his certificate was not considered and, therefore, he was not empanelled. When the petitioner got advantage under the Backward Classes Welfare Department and when the petitioner got a caste certificate on 04.08.2014, he was a Scheduled Caste from the time of his birth though the certificate he obtained later.

The authority has stated that at the time of verification, the caste certificate was not shown by the petitioner. It is in the report in the form of affidavit of the Chairman of the District Primary School Council, who is working as a Chairman from August, 2021. However, this statement that caste certificate was not

submitted (vide paragraph 7 of the writ application) has been affirmed as a statement true to his knowledge and belief. It is impossible. A chairman who was engaged as a Chairman in August, 2021, cannot say anything on the basis of his knowledge and belief that caste certificate was not produced in 2014. Therefore, this contradiction raised by the Chairman, District Primary School Council, North 24 Parganas is not accepted by this court.

Hence I find that the petitioner was a Scheduled Caste candidate, had the certificate on and from 04.08.2014, got the benefit of Backward Classes Welfare Department from 2006 or so and when a Scheduled Caste certificate was given to him, whatever be the date he was Scheduled Caste from his date of birth. Therefore, the petitioner is entitled to get service under the Scheduled Caste category for the post of Assistant Teacher in any primary school under the District Primary School Council, North 24 Parganas. If there is any vacancy in 2012 recruitment process for which written examination taken on 2012, the petitioner has to be accommodated in the vacancy of 2012 recruitment process.

The District Primary School Council, North 24 Parganas shall send all papers of the petitioner to the

Commissioner of School Education by one month from the date of communication of this order and the Commissioner of School Education shall give an approval to the service of the petitioner by three weeks thereafter and the petitioner shall have to be appointed in the post of Assistant Teacher in any primary school under the said District Primary School Council within a period of two months from the date of communication of this order.

With this observation and direction, this writ application is allowed.

(Abhijit Gangopadhyay, J.)

