

**06.05.
2022**

Ct. No. 04

Ab

MAT 428 of 2022

With

IA No. CAN 1 of 2022

Asit Kumar Pramanik

Vs.

The State of West Bengal and others.

Mr. Monruzzaman.

... for the appellant.

Mr. Himadri Sekhar Chakraborty,

Ms. Susmita Saha.

... for the State.

Dr. Sutanu Kumar Patra,

Ms. Supriya Dubey.

... for the WBCSSC.

The writ petition filed by the writ petitioner seeking an order to give an opportunity to appear in the subsequent round of counseling was rejected on the ground that there is no explanation offered by the writ petitioner for delay in making the representation.

It is undisputed that the writ petitioner/appellant was empanelled as a successful candidate having secured 10th position in the relevant category and was entitled to be called for counseling. The first round of counseling was fixed on 11th January 2019, but the writ petitioner/appellant did not appear and after a gap of four months made a representation for sympathetic consideration so that he may be permitted to appear in the subsequent round of counseling.

Our attention is drawn to Schedule 5 appended to West Bengal School Service Commission (Selection for Appointment to the Posts of Teachers for Upper Primary Level of Schools) Rules, 2016. According to the learned Advocate for the appellant, Clause (3) of Schedule 5 of

the said Rules postulates the service of notice as to the date of counseling to be served upon the candidates by speed post and since no service has been effected upon him and being not aware of such date he could not appear on the said date fixed for first counseling.

Paragraph 3 postulates two modes of service; firstly, the service to be effected through speed post and, secondly, the candidates were also directed to obtain such information from the official website of the Commission and from the office of the Central and Regional Commission.

Our attention is drawn to the representation filed by the writ petitioner/appellant on 2nd May 2019. The said representation would reveal that the writ petitioner/appellant showed his inability to appear on the date fixed for first counseling on the ground of personal inconvenience. Such expression implies that the writ petitioner/appellant was aware of the date of counseling and because of his personal difficulties and/or inconvenience he could not attend on the said date.

Paragraph 3 is to be read in more pragmatic manner than in a strict manner of interpretation. The purpose of serving a notice is to give information to the candidates about the date of counseling so that the candidates may secure their presence thereat. The moment writ petitioner/appellant was aware of the date fixed for his counseling, it would be evident from the language employed in the said representation that mere non-production of the postal receipt issuing the notice sent through speed post does not invalidate nor vitiate the entire process of selection.

Our attention is further drawn to paragraph 8 of Schedule 5 of the said Rules, which clearly debars the candidates, who remained absent in the first

counseling, to appear subsequent round of counseling.

In view of such embargo having created and the fact that the writ petitioner/appellant was aware about the date for first counseling and absented therefrom, the writ petitioner/appellant cannot seek any relief in the manner as has been prayed for.

We, thus, do not find any illegality and/or infirmity in the impugned order. The appeal is, thus, dismissed.

In view of dismissal of the appeal itself, the connected application being CAN 1 of 2022 has become infructuous and the same is also dismissed.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)