

7
17.05.2022
Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 6192 of 2022

Nitai Mandal
Versus
The State of West Bengal & Ors.

Mr. Bikram Banerjee
Mr. Sudipta Dasgupta
Mr. Arkadeb Biswas
Mr. Dipa Acharyya
... for the petitioner
Mr. Supriyo Chattopadhyay
Ms. Iti Dutta
... for the State
Mr. Ratul Biswas
... for the Board

The petitioner is TET-2014 qualified, untrained, candidate. Being successful in the initial stage of selection in the recruitment process initiated by the West Bengal Board of Primary Education in the year 2016, he was directed to report for scrutiny/verification, interview and aptitude test on 11th December, 2016. A letter of counselling was issued in his favour on 3rd February, 2017.

He was successful therein and his name was empanelled but his official result remained withheld in the panel due to the query raised by the District Verifying Authority regarding the authenticity of the Higher Secondary mark sheet acquired by the petitioner

from Jharkhand Academic Council. The Board of Primary Education sought clarification regarding the authenticity of the HS Mark sheet which finally reached the Board on 29th August, 2018.

In view of the restriction, which was imposed by the Ministry of Human Resource Development, Department of Literacy in September, 2017 restricting appointment of untrained primary and elementary teachers beyond 10th August, 2017, the Board was not in a position to provide appointment to the petitioner.

The petitioner is aggrieved by the same.

It is the categorical stand of the Board that consequent upon the restriction imposed by the Ministry of Human Resource Development, the Government of West Bengal has stopped all processes for appointment of untrained teachers and the West Bengal Primary School Teachers Recruitment Rules-2016 has been amended accordingly.

A similar issue was decided by this Court in WPA 4415 of 2021 (Ramesh Kumar Prasad vs. State of West Bengal & Ors.). By an order dated 20th January, 2022, the Court was of the opinion that the plea taken by the respondent Board for not issuing the appointment letter in favour of the petitioner cannot be appreciated.

Fact remains that the petitioner participated in the recruitment process which was initiated in the year

2016 when there was no restriction for appointment of untrained candidates as teachers of primary schools.

The petitioner participated in the recruitment process being an untrained candidate and eligible for participation for appointment as primary school teacher. He was successful in the selection. His name was empanelled and he was requested to participate in the interview and later on in the counselling. It is at this stage that the authorities thought it fit to verify and scrutinize the testimonials and educational certificates relied upon by the petitioner.

The process of scrutinizing was a time taking one and by the time the ultimate verification/scrutiny report was received in favour of the petitioner, the restriction came to be imposed.

The restriction was certainly prospective in nature. As the process of selection of the petitioner started long prior to the restriction being imposed, accordingly, the said restriction ought not to stand in the way of the respondent authorities in issuing the letter of appointment in favour of the petitioner even though he is an untrained candidate.

The case of the petitioner is liable to be decided and guided by the Rules which were prevailing on the date of issuance of the recruitment notice and the consequent selection process. Any restriction imposed subsequent to the selection of the petitioner ought not

to stand in the way of the respondent authorities in issuing appointment letter in favour of the petitioner. The right to obtain the appointment letter accrued in favour of the petitioner prior to imposition of the restriction.

Presently, the respondents are permitting untrained candidates to obtain the training so that they can perform their duty of teaching primary students properly and effectively.

The respondent authorities including the West Bengal Board of Primary Education and the Burdwan District Primary School Council are directed to take necessary consequential steps for issuance of the letter of appointment in favour of the petitioner and to permit the petitioner to join the school. The petitioner shall also be permitted to undergo the training which is required at present.

The petitioner will, however, not be entitled to receive any financial benefit for the period prior to issuance of his letter of appointment and all financial benefits will be prospective in nature.

The embargo which has been imposed by the Ministry of Human Resource Development will not stand in the way of grant of any benefit in favour of the petitioner in his service career.

The writ petition stands disposed of.

Report filed by the Secretary, West Bengal Board of Primary Education be retained with the records.

Supplementary affidavit filed by the petitioner in Court today is also retained with the record.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)