

06 06.07.2022
rkd Ct.15

W.P.A. 9194 of 2014

Md. Asif Iqbal

-vs-

The State of West Bengal & Ors.

Mr. S. P. Lahiri,
Md. Habibur Rahman,
Mr. Marghoob Ahmed Salik

....for the petitioner.

Mr. Biswbrata Basu Mallick

....for the DPSC.

Ms. Chama Mookherjee,
Ms. Manika Pandit

....for the State.

In this writ petition challenge has been thrown to Memo dated 14th February, 2013 issued by the Commissioner of School Education, West Bengal addressed to the Chairman of the District Primary School Council Uttar Dinajpur on proposal for appointment of the petitioner on compassionate ground due to death of the father of the petitioner on 24th January, 2010. Vide Memo dated 14th February, 2013 Commissioner of School Education rejected such proposal for appointment of the petitioner on compassionate ground in the post of assistant teacher in the primary school in the district of Uttar Dinajpur. Such decision of the Commissioner of School Education being respondent no.2 is under challenge in the present writ petition.

Petitioner's father was an assistant teacher in non-Government aided High School in the district of Uttar Dinajpur who died-in-harness on 24th January, 2010. During hearing the learned advocates representing the petitioner, State respondents and the District Primary School Council Uttar Dinajpur question cropped up whether the petitioner being the dependent family member of the deceased teacher applied for appointment in the post of non-teaching staff in secondary school or for the post of assistant teacher in primary school.

It appears from the impugned Memo dated 14th February, 2013 that the Commissioner of School Education communicated his decision to the Chairman of the District Primary School Council Uttar Dinajpur. In order to ascertain whether any application was made by the petitioner for appointment in the post of assistant teacher in primary school the learned advocates representing the State respondents as well as District Primary School Council Uttar Dinajpur were directed to apprise the court on production of records.

Today Ms. Mookherjee, learned advocate representing the State respondents as well as Mr. Basu Mallick, learned advocate representing the

District Primary School Council Uttar Dinajpur have jointly submitted that it was the District Inspector of Schools (SE), Uttar Dinajpur who forwarded the application of the petitioner to the office of the District Inspector of Schools (PE), Uttar Dinajpur for consideration of the prayer of the petitioner for appointment on compassionate ground in the post of assistant teacher in primary school. Such submission made on behalf of the respondents gives answer to the query of this Court that it was not the petitioner who made application for appointment in the post of assistant teacher in primary school on compassionate ground rather the District Inspector of Schools (SE), Uttar Dinajpur forwarded the matter to the concerned authorities for consideration of the prayer of the petitioner for appointment in primary school.

Now it is a settled position that appointment in the post of assistant teacher in primary school requires 50% marks in Higher Secondary Examination as well as training qualification. Admittedly, petitioner does not have such training qualification for being appointed in the post of assistant teacher in primary school. Therefore, the District Inspector of Schools (SE), Uttar Dinajpur ought not to have forwarded the

case of the petitioner for appointment on compassionate ground to the District Inspector of Schools (PE), Uttar Dinajpur for consideration rather considering the educational qualification possessed by the petitioner the said District Inspector of Schools (SE), Uttar Dinajpur ought to have taken steps for consideration of appointment of the petitioner in the post of non-teaching staff in any non-Government aided Secondary School in the district.

In view of aforesaid position, the decision taken by the respondent no.2 as contained in Memo dated 14th February, 2013 stands set aside since while taking such decision respondent no.2 explored the possibility of appointment of the petitioner in the post of primary teacher. The concerned respondent authorities as well as the District Inspector of Schools (SE), Uttar Dinajpur being the respondent no.3 are directed to take steps for processing the application of the petitioner for appointment on compassionate ground in terms of notification dated 9th July, 2009 being No.697-ES/s/IS-18/08. The concerned respondent authorities are directed to complete the process of considering such application of the petitioner for appointment on compassionate

ground for the post of non-teaching staff in secondary school within a reasonable time but not later than sixteen weeks from the date of communication of this order.

With the above direction the writ petition stands disposed of.

However, There shall be no order as to costs.

Written instruction obtained by Mr. Basu Mallick, learned advocate representing the District Primary School Council, Uttar Dinajpur is taken on record.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)