

10.11.2022
Sl. No.8(DL)
srm

W.P.A. No. 10080 of 2012
Nirapada Bera
Versus
The State of West Bengal & ors.

Mr. Kamalesh Jha,
Mr. Biswajit Tiwari,
Ms. Enakshi Mitra

....for the Petitioner.

Mr. Asish Kumar Guha,
Mr. N.G. Dastidar

...for the State-respondents.

The petitioner worked as a tax collecting sarkar under Pursurah-II Gram Panchayat allegedly since 1990 on casual/temporary basis.

Appointments to the posts in the gram panchayats are regulated by the West Bengal Panchayat (Recruitment of Employees of Gram Panchayat) Rules, 2007 (hereinafter referred to as the said Rules).

The method of recruitment has been specified in clause (b) of sub-rule (1) of Rule 7 of the said Rules. Sub-clause (ii) of clause (c) of sub-rule (1) of Rule 7 stipulates that the candidate should have passed class-VIII examination from any recognized institution. An amendment was made to the said Rules. The method of recruitment was amended. By the said amendment, 67% of

the total posts were earmarked for direct recruitment and 33% of the total posts were earmarked for in-house candidates like the petitioner, who were working as the collecting sarkars. Such candidates would be considered eligible if they had rendered six years of service in such capacity, under any gram panchayat. The amendment further stipulated that in the event of non-availability of a suitable candidate for appointment from in-house candidates, the vacant posts would be filled up by direct recruitment.

The petitioner applied with the hope that he would be successful in the selection process and would be appointed against the 33% of the vacant posts, which were earmarked for in-house candidates. Unfortunately, the petitioner was not selected.

The writ petition has been filed for setting aside the notification dated March 25, 2011 issued by the Joint Secretary to the Government West Bengal, Department of Panchayats and Rural Development. The said notification provides subject-wise breakup of the full marks to be distributed in the written test and *viva voce*. It also provides that the standard of questions in the Bengali, English and Arithmetic would be according to the class-VIII syllabus of the West Bengal Board of Secondary Education.

The contention of the petitioner is that the Memorandum dated April 25, 2011 clarified the position as to how a tax collecting sarkar would be appointed against the 33% vacancy in the post of gram panchayat karmee and as such, the earlier circular would not be applicable. It has been specifically pleaded that the translations from English to Bengali and vice versa were difficult and beyond the comprehension of even a student of class-X.

First of all, it is specifically within the jurisdiction of the employer or the recruitment body or committee to decide the mode and method of selection. The syllabus, the distribution of marks, etc. are within the domain of the experts. The writ court cannot formulate its own method. It is not a case where excessive marks had been allotted to the *viva voce* test. Rather, emphasis has been given to the performance in the written test in different subjects. The standard prescribed i.e. (syllabus of class-VIII) is in consonance with the eligibility criteria. The candidates who applied for the post were required to have at least passed class-VIII examination from any recognized institution. The contention of the petitioner that the questions were much more difficult and beyond the syllabus of class-VIII, cannot be a matter for adjudication by the writ court. The recruitment process took place

sometime in 2012. There is nothing on record to show that the allegation of the petitioner that the questions were tougher than what was expected from a person who had just qualified class-VIII examination, are well founded. The only case made out is that the translations were not at par with the syllabus of Class-VIII standard. The petitioner's own assessment of the question paper cannot be a ground for cancellation of the recruitment process. The question paper is not before the Court and the writ court cannot embark into a roving enquiry to trace out the same in order to assess the standard of the questions, after 10 years. There is a separate selection committee who are experts. Such experts have exercised their discretion by applying their mind and had set the question paper for the recruitment process as per their domain knowledge and as per the requirements for the post. In the absence of any violation of the recruitment rules and as there are no allegations of bias, mala fide and arbitrariness, the selection process which was completed ten years ago should not be interfered with. Therefore, this Court is not inclined to pass any orders.

Accordingly, the writ petition is dismissed.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)