

05.12.2022

ap
27

WPA 15399 of 2017

Rajmohan Mukherjee

Vs.

The State of West Bengal & Ors.

Mr. Victor Chatterjee

Mr. Bikash Shaw

... For the petitioner.

Ms. Sima Adhikari

Ms. Debarati Sen (Bose)

... For the State.

Petitioner was a candidate for the post of Accountant in a college namely, Tehatta Sadananda Mahavidyalaya in Burdwan under Burdwan University.

He was selected by the college for the said post but the State declined to accord approval to his appointment.

He challenged the decision of the State not to approve his appointment by filing a writ petition before this Court.

A Coordinate Bench of this Court set aside the communications of the State whereby the decision not to approve the appointment was conveyed and the State was directed to take a decision on the request for approval made by the college authorities in accordance with law by passing a reasoned order.

Accordingly, the Joint Secretary to the Government of West Bengal, Higher Secondary Department, passed an order on March 24, 2017, whereby again the approval to the appointment of the petitioner as Accountant was rejected.

In this writ petition, the said order dated March 24, 2017, has been challenged.

It was the finding of the State that the college authorities did not follow the applicable recruitment rules by making advertisements in two daily newspapers for the purpose of filling up the post in question. The post of Accountant ought to have been filled up by way of promotion, but the college had filled up the post by way of direct recruitment. It was further observed that the college had conducted a written examination and interview in a day on April 5, 2016, prepared the panel and published the same on the very same day. The selected candidates also joined the said post on the next date i.e. April 6, 2016. The authority, therefore, was of the view that the selection process was conducted unfairly.

It has been submitted by Mr. Victor Chatterjee, learned advocate appearing for the petitioner that it was not obligatory on the part of the college to fill up the post by way of promotion since there were no available candidates in the feeder post of Clerk. Therefore, the college had no option but to proceed with the selection by way of direct recruitment. It has further been submitted that the advertisement was published in one well-circulated newspaper namely, "Pratidin." The relevant circular does not say that the advertisement has to be made in two newspapers. Mr. Chatterjee submits that the selection was made on the basis of the *inter se* merits of the prospective candidates. The petitioner was successful in the selection process and therefore, the State ought to have granted approval to the appointment of the petitioner.

The college might be justified in attempting to fill up the post in question by way of direct recruitment since there were no available candidates in the feeder posts, but the manner, in which the college proceeded

to fill up the post in question, cannot be approved. I have no reason to interfere with the finding of the State authority as to the non-compliance of the Government circulars which mandated the publication of advertisements in at least two widely circulated daily newspapers, one in Bengali and another one in English. The hot haste, in which the petitioner was appointed, as apparent from the order impugned, also makes the selection vulnerable.

The order impugned dated March 24, 2017, does not call for any interference.

Accordingly, WPA 15399 of 2017 is dismissed.

There will be no order as to costs.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)