

21. 11. 2022

BP
Sl. 2
Court No. 17

WPA 24219 of 2022

Parimal Mahato & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Sandipan Das
Mr. Badrul Karim
..for the petitioners

Mr. Saikat Banerjee
Mr. Ratul Biswas
Mr. Koushik Chowdhury
..for the Board

Mr. Supriyo Chattopadhyay
Mr. Suman Dey
..for the State

Learned advocate for the petitioners have submitted that all kinds of para teachers are para teachers and there cannot be a further clarification that para teachers of primary schools and para teachers of upper primary schools are different. The petitioner has referred to Note 7 of Rule 6 of WB Primary School Teachers Recruitment Rules 2016 which is as follows :-

“Note 7.- The State Government may, by notification in the Official Gazette, earmark up to 10% of the total posts for the candidates belonging to Para-teachers without disturbing the 100-point roster as notified by the State Government from time to time, in such manner as may be mentioned in such notification.”

Relying upon this, the petitioners say that in the rule no distinction has been made between the

primary para-teachers and upper primary para-teachers and therefore, in the ensuing recruitment process all the para-teachers, be it of the primary schools or be it of the upper primary schools, should be given opportunity to appear against the said 10% reservation as has been laid down in Note 7 of Rule 6 of the above-mentioned Rules.

Learned advocate for the West Bengal Board of Primary Education has produced one Gazette Notification (which is also annexed in page 126 of the writ application) wherefrom it appears (from second paragraph):-

“Now, therefore, the Governor is pleased hereby to direct that during the **forthcoming** recruitment of Teachers for Primary Schools, 10% of the existing vacant posts shall be filled up by the para-teachers serving at present in various Primary Schools in the State:”
(Emphasis mine)

Learned advocate for the West Bengal Board of Primary Education further submits that because of this Notification No. 657 dated 23rd September, 2016 published in the Kolkata Gazette on 24.09.2016, in the recruitment process only the para-teachers of primary schools are considered.

On a reading of this Notification No. 657 dated 23.09.2016, I find that this notification is not an amending notification of Rule 6 Note 7. It only

lays down that the benefit to be given in the “forthcoming” recruitment of teachers and not in other recruitment process. “Forthcoming” means as has been given in the Cambridge English Dictionary is ‘happening soon’ and Oxford English Dictionary says ‘which is going to happen very soon’. In my view, this Notification No. 657 dated 23rd September, 2016 was only for the ‘forthcoming’ recruitment of teachers meaning thereby what was coming immediately after this notification dated 23rd September, 2016 and not for other future recruitment process.

This notification does not cover all recruitment of teachers which would come after the said ‘forthcoming’ recruitment of teachers. After 2016 the recruitment process was held pursuant to the notification published on 23rd December, 2020. Therefore, this notification no. 657 dated 23rd September, 2016 does not have any effect for the recruitment for which subsequent advertisements would be published. One of such recruitment process has been initiated on 21.10.2022.

On the basis of my observation as aforesaid, I hold that the West Bengal Board of Primary Education shall follow Note 7 of Rule 6 of the above

Rules in its letter and spirit and shall allow all para-teachers meaning thereby para-teachers of primary schools and para-teachers of upper primary schools to apply in the ensuing recruitment process definitely, subject to their other eligibilities, to take part in the process. Therefore, I declare this notification no.657 dated 23rd September, 2016 has lost its force and is not effective now. Therefore, it cannot be read along with Note 7 of Rule 6 of the West Bengal Primary School Teachers Recruitment Rules, 2016.

I further direct the West Bengal Board of Primary Education to allow sufficient opportunity to all such para-teachers for making application for the ensuing recruitment examination for primary teachers. As today is the last date for applying for the said selection process initiated by notification dated 21.10.2022 the Board shall give opportunity even after today to all such para-teachers as has been stated above for filing their applications and for this purpose separate arrangements are to be made so that no such para-teachers, who want to participate in the said selection process, can be deprived from filing his/her application.

As learned advocate for the West Bengal

Board of Primary Education has vehemently opposed off-line application, I direct the Board to take steps for such purpose as stated above for filing the application in on-line mode and the Board will give prior notice for filing such applications by the para-teachers.

The writ application is allowed to the extent as aforesaid.

(Abhijit Gangopadhyay, J.)