

Item No.2

06.01.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

WPA 10387 of 2020
Partha Pratim Howly
v.
State of West Bengal & Ors.

Mr. Narayan Chandra Mondal
Ms. Mousumi Chatterjee
... for the petitioner.

Mr. Ratul Biswas
... for the Board.

Mr. Susanta Pal
Mr. Pinaki Bhattacharyya
... for the State.

The petitioner participated in the recruitment process for appointment of primary teacher.

The petitioner submits that he belongs to the scheduled caste category. The admit card annexed to the writ petition mentions that the petitioner belongs to the scheduled caste category.

A letter of appointment was issued in his favour on February 15, 2017 wherein it mentions that the petitioner has been appointed in the physically handicapped category. The petitioner was directed to submit the joining report to the concerned Sub-Inspector of schools along with the original and attested copies of the qualification certificates, marks-sheets, age

proof certificate, caste certificate, physically handicapped certificate for further verification.

As the petitioner failed to produce the disability certificate his appointment letter stood cancelled by the Council by a communicating memo dated March 2, 2017.

The petitioner has filed this writ petition in December 2020 challenging the order of the District Primary School Council withdrawing and cancelling his letter of appointment. No reason whatsoever has been mentioned in the writ petition justifying the delay in approaching the writ Court.

The specific case of the petitioner is that though he is a candidate belonging to the scheduled caste category he has been inadvertently treated as a physically handicapped candidate and as he could not produce the disability certificate, his appointment has been terminated.

It has been submitted that there are several similarly placed candidates who were issued the letter of appointments erroneously under the physically handicapped category but on detection of the discrepancy later on the said appointment letters were withdrawn and fresh appointment letters were issued in their favour mentioning the proper category.

The petitioner prays for a direction upon the respondent authorities to issue fresh letter of appointment by mentioning the proper category in which the petitioner belongs.

The learned advocate representing the West Bengal Board of Primary Education submits, upon instruction, that the petitioner at the time of the examination mentioned that he belongs to the physically handicapped category. The data maintained in the digitized form in the office of the Board of Primary Education relying upon the OMR sheet of the petitioner records that the petitioner belongs to the physically handicapped category.

It has been submitted that assuming the letter of appointment was issued in favour of the petitioner wrongly mentioning him as a member of the physically handicapped category, the petitioner did not raise this issue at the relevant point of time. Three years after the letter of appointment stood cancelled by the authority the petitioner has approached this Court for relief.

It has also been submitted that if the candidature of the petitioner is considered in the scheduled caste category even then the petitioner does not have any chance to be appointed in view of the fact that the score of the last empanelled candidate in the scheduled caste category in his district is 18,377 whereas the marks

obtained by the petitioner is 15.842. The petitioner does not have any chance to be appointed even in the scheduled caste category as he obtained less marks than the last empanelled candidate in the said category of his district.

Hearing the submissions made on behalf of the parties it appears that the petitioner, even if treated as a member of the scheduled caste category, does not have any chance to be appointed as he scored less marks than the last empanelled candidate in the scheduled caste category. Moreover the petitioner has approached this Court more than three years after his letter of appointment has been withdrawn and cancelled by the authority. Several other recruitment processes were initiated and concluded by the Board in the meantime.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

The instruction given by the West Bengal Board of Primary Education in the form of a report signed by the Secretary of the West Bengal Board of Primary Education dated December 22, 2021 be retained with the records.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities

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(Amrita Sinha, J.)