

15.05.2023
Item No.17
Ct. No.17
S.A.

WPA 570 of 2023

Najbul Hossain Sardar
-vs-
State of West Bengal & Ors.

Mr. Chittapriya Ghosh
Mr. Somesh Kumar Ghosh
...for the petitioner
Mr. B. P. Vaisya
Mr. Gourav Das
...for the DPSC, South 24 Parganas

The petitioner applied for the post of Assistant Teacher in primary school under District Primary School Council (DPSC), 24 Parganas along with his Physically Handicapped Certificate dated 06.10.2009. This application was a correct one and it was not filed after the last date of submission.

However, the examination to be held in the year 2012 for the said post was postponed and the examination was held in 2014. When it was held in 2014, there was some conditions as to the persons who would be allowed to participate in the said test which appears from Page 29 being Annexure - P-4 of the writ application. As the petitioner satisfied all the conditions, he was given a call letter (vide Page 30 Annexure P-5) for which he appeared before the Interview Board on 18.09.2014. From a report filed today by the said DPSC it is found that the petitioner also got marks higher than the last empanelled

candidate in his category i.e. Physically Handicapped Category. The petitioner was visually handicapped with 60% disability. His Visually Handicapped Certificates are – the first one of such visually handicapped certificate is at Page 22 of the report filed today by the DPSC dated 06.10.2009 and the second certificate (renewed) has been annexed to the writ application at Page 23 – wherein also his physical disability has been declared as 60%.

Therefore, I do not find any shortcoming in respect of the petitioner for empanelment of his name under the said category for the post of a teacher. However, from the report I find that the Chairman of the said DPSC has written a letter to the Commissioner of the School Education dated 22.02.2023 (Page 23 Annexure-R-3) which in my view is not required to be written at all. As it was a mistake on the part of the DPSC in not empaneling the petitioner, the rectification can always be made when it is found that the petitioner was not at fault. Therefore, I set aside the letter written by the DPSC dated 22.02.2023 to the Commissioner of School Education which is not required and I direct the DPSC to treat the petitioner as an empanelled candidate in 2009 recruitment exercise in the physically handicapped category (visually handicapped) and he should be appointed and his name is to be sent to the

Commissioner of the School Education and the Commissioner of the School Education should give recommendation and thereafter the appointment letter should be issued to the petitioner.

I direct to conclude the whole process upto issuance of appointment letter by 45 days from date so that the petitioner can join in an appropriate school near to his residence as the petitioner is a visually handicapped candidate.

The DPSC submits that for the appointment of the petitioner, a new post is to be created as per direction of the Hon'ble Division Bench and I direct the Commissioner of School Education either to create a new post or any post which is existing for giving appointment to the petitioner within the said period.

With this observation and direction, this writ application is allowed.

In my order dated 19.04.2023 I directed the DPSC to keep two posts for the visually handicapped persons vacant and not to fill up those posts, that restraining order is recalled.

The cost has not been paid by the DPSC for some difficulty and the time to pay the cost is extended by ten days by way of a cheque to the High Court Legal Services Committee and I expect that Mr. Gourav Das, learned advocate appearing for the DPSC

will intimate this court after the payment of the cost
by way of mentioning as the matter is disposed of.

(Abhijit Gangopadhyay, J.)