

30.08.2023
Item Nos. 5.
Court No. 18
(P.Jana)

W.P.A. 1444 of 2023

Salma Sultana
-Vs-
The State of West Bengal & Ors.

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Mousumi Hazra,
Ms. Payel Shome,
Ms. Sampriti Saha,
.....for the petitioner

Mr. Biswabrata Basu Mallick, AGP.
...for the State.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey,
...for the WBCSSC.

Ms. Koyeli Bhattacharyya,
...for the WBBSE.

The petitioner participated in the 1st SLST for recruitment of Assistant Teachers, 2016 (Classes IX-X) in Government Aided/Sponsored Secondary and Higher Secondary Schools (Except Hill Region) under general category for the subject 'English(GRAD)', medium Bengali.

The petitioner was a waitlisted candidate in the said selection process under the general female category.

The petitioner alleges that in compliance with the direction passed in W.P.A. 13700 of 2021(**Setab Uddin & Ors. vs. The State of West Bengal & Ors.**), a list of the candidates was published by the West Bengal Board of Secondary Education whose appointment letters were generated as per the

recommendation of the West Bengal Central School Service Commission for appointment in the post of Assistant Teachers(IX-X) and from the said list, the petitioner for the first time came to learn that the Commission had recommended her appointment in the post of Assistant Teacher at Ganguria High School (HS), District : Dakshin Dinajpur and the Board had issued the appointment letter.

The petitioner thereafter has filed the instant writ petition praying appointment in the post she was recommended.

Mr. Firdous Samim, learned counsel for the petitioner submits that it is astonishing as to how the petitioner was recommended for appointment in a particular school when she never appeared in any counseling, he further submits that the eighth phase of counseling was done after the expiry of the life of the panel.

Dr. Patra, learned counsel for the Commission submits that the petitioner was notified to participate in the counseling through text message in her mobile phone, number of which she disclosed in her online application but she did not turn up, he further submits that the intervening Covid-19 pandemic did not allow the Commission to complete all rounds of counseling within the period of life of the panel.

Ms. Bhattacharya, learned counsel for the Board submits that the appointment letter was issued to the petitioner on the recommendation of the Commission

but the petitioner did not collect it, which is still lying with the Board.

Mr. Biswabrata Basu Mallick, learned Additional Government Pleader submits that the post in respect of which the appointment of petitioner was recommended is still lying vacant.

I have heard the learned counsel for the parties at length and have perused the materials-on-records placed before me by the respondent authorities through their respective reports.

The Commission in its report has specifically stated that merit position of the candidates was not compromised in recommending the appointment of the petitioner. Holding the eighth phase of counseling after the expiry of the life of the panel gets justified for the situation which prevailed all over the world on intervention of Covid-19 pandemic.

The mode of notifying the candidates about the date of counseling through mobile phones in the number provided by them in their respective online application cannot be faulted as has been argued by Mr. Samim inasmuch as communication is the object to get the mobile number of a candidate nonetheless the possibility that a candidate has missed such communication cannot be ruled out altogether and in such case, the benefit of doubt should be given to a successful candidate.

The petitioner was found to be eligible for the appointment she applied for but could not join in the

recommended post for lack of knowledge about her success, instead she was participating in the demonstration for the appointment.

The petitioner, under the aforesaid circumstances, is entitled to get appointment in the post she was recommended, therefore the Chairman, West Bengal Central School Service Commission, the respondent no. 3 herein, within a week from date shall issue a fresh recommendation to the petitioner for appointment in the post of Assistant Teacher in subject English (GRAD) at Ganguria High School (HS), District : Dakshin Dinajpur subject to verification of all her original testimonials and for the said purpose, the petitioner is directed to appear before the said respondent.

The President, West Bengal Board of Secondary Education, within two days from the date of receipt of the aforementioned recommendation for appointment shall take necessary steps for issuance of the appointment letter to the petitioner.

WPA 1444 of 2023 is **disposed of** with the above terms without any order as to costs.

Parties to act on the server copy of this order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)