

19.04.2023
Ct. 5
D/L 183
ab

WPA 1062 of 2016
(Assigned)

Somnath Das
-Vs-
The State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharyya,
Mr. Raju Bhattacharyya,
Mr. Arunava Maiti,
Mr. Tanweer J. Mandal

... for the petitioner

Dr. Sutanu Kr. Patra,
Ms. Supriya Dubey

... for the School Service Commission

The petitioner sat for the 12th Regional Level Selection Test (RLST), 2011 and was not called for counselling. The instant writ petition is a result of the petitioner's grievance where the petitioner has prayed for a Mandamus on the respondents to permit the petitioner to appear in the counselling for the post of Assistant Teacher in Work Education (Pass) under OBC-B Category.

Learned counsel appearing for the petitioner relies on the statement made in the affidavit of the School Service Commission, which accounts for the petitioner not being called for counselling on the ground of the petitioner not having B. Ed degree. Counsel places a Notification of 2006 of the School Education Directorate of the Government of West Bengal, which

states that the teachers appointed or to be appointed to the post of Work Education and Physical Education Group need not undergo B. Ed Training. Counsel also relies on Note 6 of the Notification published by the School Education Department, Government of West Bengal on 23rd December, 2011 which states that the successful untrained candidate shall be selected upon receipt of an undertaking to the effect that the candidate will obtain the required training qualification within 2 years from the date of joining of the post.

The School Service Commission is represented; learned counsel places an order passed by a learned Single Judge of this Court, as His Lordship then was, in a writ petition filed by a candidate who was in similar position as that of the petitioner. The order is dated 7th February, 2013 in *W.P. 1019 (W) of 2023 (Tania Ghosh & Ors. Vs. State & Ors.)*.

Upon considering the material placed before this Court, it appears that the order passed by the learned Single Judge in *Tania Ghosh* gave a specific direction to the School Service Commission (the respondent no. 8 in the order) to identify the names of the selected candidates possessing minimum qualifications specified in the Notification of NCTE dated 25th August, 2010. The School Service Commission was further directed to first recommend the names of the selected candidates from the merit list who possess minimum qualifications

as prescribed in NCTE's Notification and thereafter to recommend the names of those candidates who do not possess the minimum qualifications in terms of the Notification. The affidavit-in-opposition throws light on this aspect of the matter.

The admitted fact is that out of 39 vacancies pertaining to the post for which the petitioner appeared in the RLST, 41 candidates were called for counselling and although the last candidate obtained 54.5 marks as opposed to the petitioner's 58 marks, the petitioner could not be called for counselling since the petitioner did not have B. Ed degree at the relevant point of time. The relevant paragraph in the affidavit-in-opposition also refers to the direction passed in *Tania Ghosh* on 7th February, 2013.

The explanation given by the School Service Commission appears to be credible in the light of the order passed by the learned Single Judge. The contention, that there were more than 39 vacancies, is not tenable since the vacancies were in relation to combined merit list. Note 6 of the Notification dated 23rd December, 2011 is applicable to an untrained/successful candidate who is selected in the examination. The Notification of 2006 relied on by the petitioner makes way for the specific direction passed by the learned Single Judge in 2013.

This Court is, therefore, unable to find any reason for allowing the writ petition and the prayers therein. In any event, the concerned Examination was held in 2012 and the panel expired in 2015. The petitioner filed the instant writ petition in 2016. We are now in April, 2023. The balance of convenience hence also lies against the petitioner or for granting any order.

WPA 1062 of 2016 is disposed of in terms of the above without any order as to costs.

(Moushumi Bhattacharya, J.)