

Item-7. 05-10-2023

FMA 264 of 2023
CAN 1 of 2023

sg Ct. 8

Akash Biswas
Versus
The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya, Adv.
Mr. Sabyasachi Mukhopadhyay, Adv.
...for the appellant
Mrs. Nandini Mitra, Adv.
Mr. Sourabh Sengupta, Adv.
...for the Calcutta University

1. The appeal is directed against the order dated 28th November, 2022 passed by the learned Single Judge in a writ petition filed by the appellant challenging the decision of the University in not selecting him for the post of Assistant Profession in Bengali language and literature under OBC-B category.
2. The learned Single Judge relying upon the resolution adopted by the Selection Committee on 11th November, 2016 for the post in question, declined to interfere with the decision of the Selection Committee even in the absence of the score sheet as the Selection Committee did not find anyone suitable and hence, there was no discrimination.
3. In terms of the earlier order, the University has filed a report in the form of an affidavit in which the University has disclosed the score sheet that was not available before the learned Single Judge at the time of deciding the writ application. It appears that the Selection Committee was consisted of 7 eminent professors who have assessed 64 candidates and did not find anyone suitable for the post. The writ petitioner obtained 32% marks in average and hence

was not found suitable. The selection was made in accordance with Rules after taking into consideration the qualification and the marks to be allotted to each of the candidate for their qualification have been duly assessed.

4. It is true that the breakup of the marks has not been disclosed but it cannot be presumed any malafide that the petitioner has been unfairly treated. In that the Selection Committee did not find anyone candidate suitable.
5. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge.
6. The appeal fails. However, there shall be no order as to costs.
7. The appeal and the application are accordingly dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)