

01.05.2023
Item No. 6
Crt.11
b.r.

MAT 448 of 2023
IA No. CAN 1 of 2023, CAN 2 of 2023

Tushar Kanti Das
-vs-
Union of India & Ors.

Mr. Samim Ahammed
Mr. Arka Maiti
..... for the appellant.

Mr. Ashok Chakraborty, Ld. ASG.
Mr. Billwadal Bhattacharya, Ld. DSG.
Mr. D.N. Roy
..... for the Union of India.

Mr. Santanu Kumar Mitra, Sr. Adv.
..... for the WBBSE.

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
..... for the State.

Mr. Ratul Biswas
Mr. Kaushik Chowdhury
..... for the Primary Board.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

By the Order of this Court dated 26th of April, 2023, this Court was pleased to record the essential facts connected to this appeal. The appellant is aggrieved by the Order dated 21st February, 2023 passed by the Hon'ble Single Bench in WPA 21187 of 2022 wherein and whereunder the services of the appellant as an Assistant Teacher of the School-in-issue was terminated on the ground that since the appellant is not conversant with the English language, he is unfit to hold the teaching job.

The case of the appellant came up before the Hon'ble Single Bench while examining the conduct of an Aptitude Test by the West Bengal Board of Primary Education (for short, the Board) for recruitment of Assistant Teachers in Schools throughout the State of West Bengal. The appellant was one of the individuals drafted by the Board to be part of the Interview Board to conduct the Aptitude Test.

In the process of such scrutiny by the Hon'ble Single Bench, the name of the appellant was submitted by the Board before Court and when the appellant was summoned before the Hon'ble Single Bench, he was noticed to be non-conversant with the English language.

This Court is informed that the appellant is only a Physical and Work Education Teacher of the School-in-issue. Therefore, it stands to reason that in his capacity as a Physical and Work Education Teacher, the appellant's fluency in English is not a regular requirement for the discharge of his daily duties. Furthermore, it is the Board rather than the appellant, which is required to answer the propriety of the Aptitude Tests conducted under its instructions.

Mr. Mitra, Learned Senior Advocate, appears for the West Bengal Board of Secondary Education, which is the body responsible for appointing the appellant and consequently for terminating his service.

Having regard to the conspectus of facts as recorded above and the reasons furnished thereto, Leave to Appeal stands granted and the Order impugned dated 21st February, 2023 stands set aside.

The writ petition returns to the Hon'ble Single Bench to be considered on merits.

It is made clear that this order is restricted to only the aspect of termination of service of the appellant arising out of the Order impugned and does not touch the other merits of the case.

CAN 1 of 2023 stands accordingly **allowed**.

MAT 448 of 2023 stands thus **allowed**.

CAN 2 of 2023 stands **disposed of**.

Since no affidavits are used, other allegations made shall be deemed not to have been admitted.

Parties to act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all necessary formalities.

(Supratim Bhattacharya, J.)

(Subrata Talukdar, J.)