

08.12.2023
Court No.13
Item No. 26
pk

WPA 8104 of 2023

**Souvik Mondal
Vs.
Union of India and another**

Ms. Oindrila Ghosal

... for the petitioner.

Mr. N. L. Singhanian,
Ms. Sumit Sarkar,
Ms. Sanchari Chakraborty

... for the UOI.

1. The petitioner is aggrieved by the recruitment process pursuant to the post of Lower Division Clerk (LDC) published by the Asiatic Society. Pursuant to the Notification dated 8th October, 2021, the qualification on the scale of pay, age limit and system of recruitment are mentioned in the notice. The petitioner sat for the written test held on 06.11.2022. Examination pattern was notified on 14th October, 2022 before the written test.

2. The petitioner ranked 73 amongst 84 candidates for a total 9 posts of which only 7 were unreserved category. The petitioner is unreserved category.

3. The petitioner thereafter was asked to participate in a test for basic computer operation for the post of L.D.C. on 17.12.2022 in which he participated. The petitioner was not successful.

4. Counsel for the petitioner would vehemently argue that it was specified in the original notice of vacancy dated

8th October, 2021 that computer operation is desirable. The same could not have been made mandatory giving 40 marks in the process of recruitment.

5. It is further submitted that by notification of the Central Government of the year 2015 interview process for the LDC is not conceived of. The petitioner was asked to participate in the interview process on 17.12.2022, after computer examination.

6. Learned counsel for the Asiatic Society submits that there was absolutely no interview and it is only meeting the candidates in the process of assessment of the computer examination that occurred.

7. Substantial knowledge of computer applications is impliedly essential as manual typewriters have nearly been abandoned as on this date of notification of vacancy i.e. October 2021. The expression “knowledge of typing” and “knowledge of computer operation” is desirable, therefore, essentially implies substantial knowledge of operation of computers by a Lower Division Clerk was mandatory.

8. This Court is not convinced by the submissions of the learned counsel for the petitioner that any rule of the game or recruitment have been changed in course of recruitment process. Any meeting of the candidate cannot be construed as an interview process.

9. In any event, this Court is of the view that the petitioner's case is clearly hit by the principle of law that a person who participated in a recruitment process and was unsuccessful cannot turn around and challenge the whole process of recruitment. Reference in this regard is made to the decision of the Supreme Court in the **Ashok Kumar Vs. State of Bihar** reported in **(2017) 4 SCC 357**, particularly in paragraph 13 which is set out hereinbelow.

“13. The law on the subject has been crystallised in several decisions of this Court. In Chandra Prakash Tiwari v. Shakuntala Shukla [Chandra Prakash Tiwari v. Shakuntala Shukla, (2002) 6 SCC 127 : 2002 SCC (L&S) 830] , this Court laid down the principle that when a candidate appears at an examination without objection and is subsequently found to be not successful, a challenge to the process is precluded. The question of entertaining a petition challenging an examination would not arise where a candidate has appeared and participated. He or she cannot subsequently turn around and contend that the process was unfair or that there was a lacuna therein, merely because the result is not palatable. In Union of India v. S. Vinodh Kumar [Union of India v. S. Vinodh Kumar, (2007) 8 SCC 100 : (2007) 2 SCC (L&S) 792] , this Court held that : (SCC p. 107, para 18)

“18. It is also well settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same. (See Munindra Kumar v. Rajiv Govil [Munindra Kumar v. Rajiv Govil, (1991) 3 SCC 368 : 1991 SCC (L&S) 1052] and Rashmi Mishra v. M.P. Public Service Commission [Rashmi Mishra v. M.P. Public Service Commission, (2006) 12 SCC 724 : (2007) 2 SCC (L&S) 345] .)”

10. Reference in this regard is also made to the decision of the Supreme Court in the case of **Naveen Jain Vs. Union of India** reported in **(2019) 10 SCC 34**.

11. In view of the above no relief can be granted to the petitioner.

12. The writ petition fails and is hereby dismissed.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)