

05. 08.02.2023  
bd. Ct.15

W.P.A. 7865 of 2014

Mondira Mondal

-vs-

The State of West Bengal & Ors.

Mr. Goutam Banerjee

Mr. Samrat Das

Ms. Chumki Das Bairagyya

Ms. Priya Dey

... for the petitioner.

Mr. Kanak Kiran Bandopadhyay

... for the SSC

Petitioner participated in 12<sup>th</sup> Regional Level Selection Test (AT) 2011 for being appointed as Assistant Teacher in Work Education under Schedule Caste category.

The grievance of the petitioner is in spite of performing well in the written test she was not selected for being recommended in the post of Assistant Teacher and the candidates who were awarded lesser marks than the petitioner was favoured with recommendation.

Today writ petition is heard after exchange of affidavits. On perusal of the affidavit in opposition used on behalf of the Commission affirmed on 23<sup>rd</sup> June, 2014 it appears that the petitioner was awarded 24 marks (11+13) in written examination and subject test i.e., paper- I and 14 marks were awarded considering the academic qualification of the petitioner. The total marks which petitioner was awarded was 38. It has also been indicated in paragraph 4 of the affidavit in opposition that

petitioner was not having B.Ed. qualification, therefore she was considered as an untrained candidate and in the category of the petitioner the last candidate being female SC work education untrained candidate was called for personality test was awarded 49 marks. The last female candidate was awarded 35 marks in Paper-I and 14 marks for academic qualification. Placing reliance on the relevant part of the affidavit in opposition it has been contended on behalf of the Commission that there was no supersession made while considering the respective claim for being appointed in the post of Assistant Teacher in Work Education being SC candidate and selection was made strictly on the basis of merit.

Mr. Banerjee, learned advocate, representing the petitioner has raised another issue that while appraising the candidature of the petitioner the marks which were required to be awarded for teaching experience was not allotted to the petitioner. In this regard reliance has been placed on the notification dated 21<sup>st</sup> December, 2011, whereby amendments were brought in respect of West Bengal School Service Commission (Selection of Persons for Appointment to the Post of Teachers) Rules 2007. According to such amendment notification dated 21<sup>st</sup> December, 2011 Clause 5 contains amended Part-C under Schedule II wherein Section C (ii) provides as follows:

*“(ii) Experience in Teaching  
(0.5 marks for each complete  
year of continuous teaching  
experience up to the maximum  
ceiling limit of 5 marks, i.e.*

*maximum 10 years of continuous teaching experience.)”.*

According to the petitioner, on the strength of aforesaid provisions marks ought to have been awarded for the teaching experience of the petitioner first as part-time teacher in the vacancy arising out of maternity leave on and from 27<sup>th</sup> January, 2008 to 13<sup>th</sup> January, 2009 in one high school and subsequently, as vocational staff in the same school with effect from July 2009.

Such contention raised on behalf of the petitioner is disputed by the learned advocate representing the Commission also upon placing reliance on the aforesaid provisions as contained in the Notification dated 21<sup>st</sup> December, 2011. According to the Commission, on the date of submitting application offering candidature for the post of Assistant Teacher in Work Education under SC category petitioner was working as vocational staff in a high school and that should not be treated as an engagement as teaching staff in a high school as contemplated in the aforesaid provisions contained in notification dated 21<sup>st</sup> December, 2011.

This Court has considered the submissions made on behalf of the respective parties and perused the relevant provisions as contained in the Notification dated 21<sup>st</sup> December, 2011. It emanates from the relevant paragraph of the affidavit in reply filed by the petitioner that the petitioner worked as part-time teacher due to maternity leave obtained by a regular teacher for the period from 27<sup>th</sup> January, 2008 to 13<sup>th</sup> January, 2009 and subsequently worked as vocational staff in the same school from July 2009. If this Court

proceeds on the premise that on the date of submitting application for being appointed in the post of Assistant Teacher in Work Education under 12<sup>th</sup> RLST 2011 at best petitioner can be considered as a staff working in vocational course in a high school. It has been clarified in the notification dated 21<sup>st</sup> December, 2011 that who are those teachers to get the benefit of marks for teaching experience in Note 3 under Section C. Relevant Part of Note 3 is quoted below:

*“Note-3- Only those candidates serving as Part-time Teacher /Para-Teacher/Contractual-Teacher/Assistant Teacher duly approved by the competent authority (by whatever name known) in any Junior High/High School/Higher Secondary School recognized by the West Bengal Council of Higher Secondary Education/West Bengal Board of Secondary Education or equivalent or a Samprasark /Samprasarika/Mukhya Samprasark/Samprasarika in MSK or Shikha Mitra in Rabindra Mukta Vidyalaya or a Special Educator under PBSSM will be eligible to get the facility as laid down in item no. (ii) of Section C of Part C of Schedule II of the said rules provided that, the candidate has to continue his/her service till the date of application.”*

In consideration of Note 3 Appended to Section C of the said notification it does not appear that the petitioner is falling under any of the categories as described therein. Therefore, the contention raised on behalf of the petitioner that marks ought to have been awarded in consideration of the teaching experience is negated. In view of the statements made by the Commission in paragraph 4 of the affidavit in

opposition it appears that the last candidate under the category of the petitioner was called for personality test was awarded 49 marks in total whereas petitioner was awarded 38 marks. Therefore it appears in terms of merit petitioner did not come within the zone of consideration.

Accordingly, this Court does not find any merit in the writ petition and the same stands dismissed. Interim order passed on this writ petition stands vacated. However, there shall be no order as to costs.

Since the affidavit in reply used by the petitioner is not available on record this Court requests Mr. Banerjee to supply a photocopy of the said affidavit in reply to this Court and the same shall be treated as original till the affirmed affidavit in reply is traced out.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

**(Saugata Bhattacharyya, J.)**