

28.11.2023
SL No.2
Court No.8
(gc)

FMA 2077 of 2015

**West Bengal Board of Primary Education & Anr.
Vs.
Mou Mozumder & Ors.**

Mr. Subir Sanyal,
Mr. Ratul Biswas
...for the Appellants/Board.

1. We have heard Mr. Ratul Biswas, learned Advocate appearing on behalf of the Board. It is submitted that the matter was decided without giving an opportunity of filing any affidavit to disclose the correct facts. It is submitted that the order was passed disregarding the advertisement/employment notification dated 15th November, 2012 which would show that the candidate should be of 18 years. Since the petitioner did not fulfil the age criteria, her candidature could not have been considered and consequential direction for appointment could have been passed. The fact that the appellants have allowed the petitioner to participate in the Teacher Eligibility Test does not mean that on ascertainment of correct facts her candidature could be considered for the said post as she was admittedly under 18

years of age. The learned Single Judge had arrived at a finding that she was not responsible for the action of the appellant and it is not a fact that she did not disclose all relevant documents which could not be disclosed for the oversight or mistake as alleged by the appellants. In fact, she participated and was successful in the selection process which squarely shows that she was otherwise eligible for the post. She competed with the other candidates.

2. Although this appeal was preferred on 11th May, 2015, no attempt was made on behalf of the appellants to have this appeal made ready for hearing and it appears that the matter was appeared for the first time on 9th October, 2023 after a direction was passed by this Court for listing of old matters.
3. Having regard to the fact that the appellant was no way responsible and that age bar does not stand any further, we do not find any reason to interfere with the order passed by the learned Single Judge. At this distant period of time, it will be inequitable to interfere with the said order. Moreover, she was successful in the said selection process.

4. On such consideration, we do not find any reason to interfere with the order passed by the learned Single Judge.
5. Accordingly, the appeal stands dismissed.
6. However, there shall be no order as to costs.
7. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)