

04.07.2023
SL No.26
Court No.8
(gc)

MAT 559 of 2018
CAN 1 of 2018 (Old No: CAN 3869 of 2018)
CAN 3 of 2020

Sambhunath Payra
Vs.
State of West Bengal & Ors.

Mr. Soumen Kr. Dutta,
Mr. Sabyasachi Bhattacharjee,
...for the Appellant.

The learned Counsel for the appellant has submitted that pursuant to the order passed by a Coordinate Bench on 16th July, 2018 in CAN 3869 of 2018 directed the Director of Public Instruction, West Bengal to examine the panel that has been forwarded by the Kalna College for approval and in the event the panel is found to be in order and accordingly approved, no effect thereof shall be given without obtaining leave of the Court. The learned Counsel has produced the decision of the D.I. dated 23rd August, 2018 making the following observation:-

“1. The college authority has conducted the interview process for the post of Group-D (Library Peons-2, Office Peon-1, Guards-2, Laboratory Attendants-6) analogously in two tables (Table-1 and Table-2) at a time though the Roaster (sic.) Point for the said posts differs. So the presence of all the five Selection Committee members in both the tables at a time is not evidenced from the said panel of the aforesaid posts.

2. The college authority has only forwarded a single panel consisting of only the name of the candidates who stood first in each posts i.e. 11 names for 11 posts. The college should submit individual panel for each posts category-wise consisting of at least three candidates in order of their merit.

3. The posts of "Library Peons", "Office Peon" and "Guards" have not been authenticated separately and placed in a single category in the Roaster (sic.) of Appointment though their nomenclature are different.

4. The post of "Laboratory Attendant (Geography)" meant for UR (unreserved persons with disabilities), Roster Point 12 has not also been authenticated from the Competent Authority i.e. from Social Welfare Department, West Bengal.

Under the aforesaid circumstances, the undersigned is directed to inform you that this office is not in a position to approve the panel for the aforesaid 11 posts as submitted by you with your letter under reference."

The learned Counsel has submitted that in view of such decision of the D.I., grievance of the petitioner with regard to the preparation of the panel stands ventilated.

The basis of the challenge before the learned Single Judge was a subsequent notification by which the College permitted the candidates who had not made bank deposit and obtained online admit card to walk in for interview. The learned Single Judge in refusing to accept the said submission had

relied upon guideline no.4 and the decisions of the Hon'ble Supreme Court in ***Union of India & Ors. Vs. B. Valluvan & Ors.*** reported at ***(2006) 8 SCC 686*** and ***M.P. State Coop. Bank Ltd. Bhopal Vs. Nanuram Yadav and Ors.*** reported at ***(2007) 8 SCC 264.***

The infraction alleged on behalf of the writ petitioner was not an infraction of the rules. However, having regard to the subsequent development, the appeal in effect succeeds although the basis may be wrong. Since the panel has not been approved by the D.I. and the same is not under challenge, we dispose of the appeal by recording that the panel sent by the school was not approved by the D.I.

Accordingly, the appeal and the applications stand disposed of.

However, there shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)