

03.07.2023
DL-8
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 10288 of 2023

Vivek Singh
Vs.
Union of India & Ors.

Mr. Dibyajyoti Raha,
Mr. Kuntal Banerjee

....for the petitioner.

Mr. Amitabha Nayak

....for Union of India.

The petitioner applied for recruitment in an examination conducted by the Staff Selection Commission for recruitment to the post of Constable (GD) in CAPFs, NIA, SSF and Rifleman (GD) in Assam Rifles, pursuant to a recruitment notification dated September 5, 2018.

It is the contention of the petitioner that he applied in OBC category. His district of domicile was Paschim Bardhaman. Wrongly the admit card issued for written examination recorded the petitioner's category as Scheduled Tribe (ST). His address was also wrongly recorded as Rajasthan instead of Paschim Bardhaman, West Bengal. The petitioner was called for Physical Standard Test (PST)/Physical Efficiency Test (PET) by an e-admit card. The said e-admit card also recorded the petitioner to be a candidate in ST Category. From the report of the

authorities in PST/PET, the petitioner is seeking to show that his category was recorded as OBC. The petitioner was called for Detailed Medical Examination (DME) on February 12, 2020. There again, the e-admit card recorded the category of the petitioner as ST.

It is submitted on behalf of the petitioner that such mistakes on the part of the respondent authorities were brought to their notice by a representation dated July 26, 2019. Furthermore, representations were made on January 25, 2021 and February 1, 2021. Pursuant to the representations made by the petitioner in January and February, 2021, it was informed that the petitioner secured less than the cut off marks obtained by the candidates in the ST category. The petitioner secured 59.32073 in the written test whereas the last selected candidate secured 60.90634. Due to the reason that the marks obtained by the petitioner is lower than the last selected candidate in the ST category he was not considered for appointment.

Mr. Nayak, learned counsel appearing on behalf of Union of India submits that the petitioner did not raise any objection when admit cards were issued to him even if such admit cards were wrongly issued.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the admit cards for written test as well as PST/PET and DME clearly categorised the petitioner as an ST candidate. No objection was raised by the petitioner when such admit cards were issued. The document relied upon by the petitioner dated July 26, 2019 for contending that during such process of recruitment the petitioner prayed for correction of his details is unsigned, unstamped and unsealed. There is no corroborative evidence to show how the document was served on the respondent authorities. However, the representations made by the petitioner on January 25, 2021 and also February 1, 2021 bear signature, stamp and seal of the authorities.

Therefore, this Court is not inclined to rely on the document dated July 26, 2019 to accept petitioner's contention. The petitioner after completion of the entire selection/recruitment process and after participating in the same cannot now urge that the petitioner was wrongly categorised in ST category.

To the mind of this Court, the petitioner may have been seeking to take advantage of the fact that in the event the "*cut off*" marks for ST category

candidates were less than OBC candidates he would have sought for selection in the said category based on the documents of the respondent authorities themselves. The petitioner resorted to taking a chance. Such conduct of the petitioner is not appreciated. The petitioner should not be allowed approbate and reprobate.

In the light of the discussions above, **WPA 10288 of 2023** is **dismissed**.

Since no affidavits have been directed to be exchanged in the writ petition, the allegations contained therein are deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

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

(Lapita Banerji, J.)