

188. 16.05.2023
bd. Ct.15

W.P.A. 11341 of 2014

Ankan Datta

-vs-

The State of West Bengal & Ors.

Mr. Pinaki Dhole

Md. Ziaur Rahaman ... for the petitioner.

Mr. Rajendra Chaturbedi ... for the State.

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey ... WBCSSC.

Petitioner participated in 1st Regional Level Selection Test, 2010 for appointment in the post of clerk and admit card was issued by the concerned authorities of the School Service Commission stating that the petitioner is an OBC candidate. However, on completion of the selection procedure a merit list was published where name of the petitioner did not feature which prompted the petitioner to approach the concerned authority of the Commission by submitting an application under Right to Information Act, dated 5th February, 2014. This application under Right to Information Act, dated 5th February, 2014 was made by the petitioner after the information was provided by the Commission vide memo dated 21st November, 2013. On perusal of such memo dated 21st November, 2013 it appears that it was clarified by the Commission that for appointment in the post of clerk in connection with the 1st Regional Level Selection Test, 2010 there was no vacancy earmarked for OBC category candidate.

The contention which has been raised on behalf of the petitioner since petitioner participated as an OBC category candidate in 1st Regional Level Selection Test, 2010 for non-teaching staff (clerk) that the candidature of the petitioner ought to have been appreciated against any vacancy reserved for OBC category candidates. It has further been submitted that under the 100-point roster while identifying the vacancy of non-teaching staff the concerned authority of Commission ought to have reserved vacancy of clerk under OBC category.

The contention raised on behalf of the petitioner in the writ petition has been disputed by the Commission by filing an affidavit-in-opposition affirmed on 27th April, 2023. In paragraph 4(b) of the said affidavit it has been categorically averred that as per advertisement dated 28th January, 2010 specifying category and number of vacant posts disclosing there were 78 posts for clerk in the district of Malda and out of which 18 posts were reserved for General Male/Female candidates, for General Female candidates two posts were reserved, 48 posts were reserved for SC Male/Female category candidates, 9 posts were reserved for SC Female category candidates and one post was reserved for ST Male/Female candidate. Therefore, from the relevant part of the affidavit-in-opposition affirmed on behalf of the Commission it appears that no post was reserved for OBC category candidate.

In the present case petitioner belongs to OBC category and he might have made an application before the Commission being an OBC category

candidate and admit card was issued describing the petitioner as OBC candidate but in view of absence of any vacancy reserved for OBC candidate at best candidature of the petitioner could have been appraised as general category candidate.

An effort has been made on behalf of the petitioner to demonstrate before this Court that under the 100 point roster the respondent authorities ought to have reserved certain posts for OBC candidates but the issue of identification of vacancy under 100 point roster in connection with 1st Regional Level Selection Test, 2010 for non-teaching staff (clerk) has not been pleaded in the writ petition. Therefore, the issue which has been attempted to be raised during the course of hearing is not an issue in the writ petition.

In view of absence of pleadings in the writ petition this Court is not required to adjudicate such issue.

In view of absence of vacancy under OBC category right of the petitioner to be adjudged against one of the OBC category vacancies cannot be countenanced.

Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)