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05.10.2023
D.Hira
Court No. 12

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**MAT 845 of 2018
With
CAN 2 of 2023**

**Subhadip Sadhukhan
Versus
The State of West Bengal & Ors.**

**Mr. Sabyasachi Chatterjee,
Mr. Pintu Karar,
Mr. Badrul Karim,
Mr. Kiron Sk.
... for the appellant**

**Mr. Sujit Sankar Koley.
... for the respondents**

The appellant in response to the advancement issued by the respondent no. 3 in the year 2012 participated in the selection process for appointment of Assistant Manager for six posts in different streams. The appellant was not selected. Hence, he filed writ petition being W.P. no. 33934 (W) of 2013. The respondents opposed the same. The learned Single Judge considering the materials and the arguments of counsel for the appellant as well as respondents dismissed the writ petition.

Against the said order of dismissal of the writ petition, the present appeal is filed.

Learned counsel appearing for the appellant submitted that the selection process does not prescribe the requirement of a candidate securing 60% mark at interview for qualification. The Rules of selection was changed after commencement of selection. The Regulation dated 27th September, 2006 is not applicable to the present selection process.

The learned Judge erroneously held that the said Rule is applicable for recruitment of officers in respondent no. 3. The respondents violated the Rules while selecting the candidates. In spite of appellant's repeated requests, the respondents published list of selected candidates without including reserved candidates. The respondents did not follow the reservation policy and OBC candidate was not selected and prayed for setting aside the order of the learned Single Judge and allow the appeal.

Per contra, learned counsel appearing for the respondents submitted that accepting the notification issued on 27th September, 2006 the appellant participated in the selection process. After participating and non-selection he cannot question the same. The respondents followed the reservation policy. Six candidates were selected for the post of Assistant Manager in Electronics and Telecommunication. Sixth vacancy reserved for OBC candidate. For that vacancy, OBC-A candidate was selected. The appellant belongs

to teli-community which comes under the category of OBC-B. Hence, the contention of the appellant that reservation policy was not followed by the respondents is incorrect.

Learned counsel appearing for the respondents further submitted that the appellant did not obtain 60% requisite marks and, hence, he was not selected. All the records were placed before the earlier Division Bench as well as Single Bench in W.P. no. 33934 (W) of 2013. Learned Judge considering the entire materials including the documents produced by the respondents rightly dismissed the writ petition and prayed for dismissal of the appeal.

Heard Mr. Sabyasachi Chatterjee, learned counsel appearing for the appellant and Mr. Sujit Sankar Koley, learned counsel appearing for the respondents and perused the entire materials on record.

The appellant applied for appointment of Assistant Manager in respondent no. 3 project of six posts in different streams. Totally 351 candidates were applied for various posts. 21 candidates qualified in the written test and called for the interview. 20 candidates including the appellant appeared for interview. The appellant obtained only 29.85 marks, which was less than 60% fixed in the interview. The appellant is challenging his non-selection on the ground that Rules

of selection were changed after commencement of selection process.

It is the case of the respondent no. 3 that selection was conducted as per Regulation which came into force by Amendment dated 27th September, 2006. The contention of the learned counsel for the appellant that the said Regulation applies for promotion of officers and not for appointment is not correct. A reading of the said Regulation clearly reveals that the said Regulation applies for both recruitment as well as promotion of officers. The said Regulation was in force at the time of advertisement calling for the post.

The appellant contend that the Rules of selection was changed after commencement of selection process is also not correct. Further, in any event, the appellant did not challenge the selection process. On the other hand, he participated in the selection process and after being not selected it is not open to the appellant to challenge the selection process.

Learned Single Judge has considered the Regulation and other materials on record and by giving valid reasons dismissed the writ petition.

There is no reason to interfere the order of learned Single Judge.

For the above reasons, the appeal is dismissed.

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

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)