

05.09.2023
SL No.43
Court No.8
(gc/ar)

MAT 1186 of 2021
I.A No. CAN 1 of 2021

Sri Goutam Bhuiya & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Banshari Bhusan Sarkar,
Ms. Priti Jain,
Mr. Pratit Sarkar

... For the Appellants.

Mr. Supriya Chattopadhyay, A.G.P.
Mr. Amrit Lal Chatterjee

... For the State.

Dr. Sutanu Kr. Patra,
Ms. Supriya Dubey

... For W.B.C.S.S.C.

Mrs. Koyeli Bhattacharyya

... For W.B.B.S.E.

1. We have heard the learned counsel for the parties.
2. The selection is for the post of Headmaster. We have directed the West Bengal Central School Service Commission, the respondent no. 3, to file an affidavit clarifying the following points:-
 - i) The application for 100-point roster in relation to the advertisement issued on 12th June, 2017.
 - ii) Whether the post of Headmaster is filled up by fresh recruitment process or through promotion and applicability of 100-point roster in filling up such vacancy.

3. The affidavit filed by the West Bengal Central School Service Commission has clarified both the issues in paragraphs 6 and 7 of the said affidavit. It is stated that the said 1st SLST(HM), 2017 was conducted on the basis of the West Bengal Central School Service Commission (Selection for appointment to the Posts of Headmaster/Headmistress in Secondary or High Secondary and Junior High Schools) Rules, 2016 which does not have any provision for reservation on the basis of caste as the post is a single post cadre and it is settled law that a single post cadre cannot be reserved and hence, the question of following 100 point roster does not arise. It may be noted that the vacancies for Headmasters/Headmistress are categorized only on the basis of medium of instruction and gender. Moreover, all information regarding vacancies is kept with the School Education Department, Government of West Bengal, which maintains the 100-point roster which is followed by the concerned schools when applicable. However, with regard to Headmasters/Headmistresses the vacancy

list does not indicate any caste category as the said post is a single post cadre. The advertisement has also clearly stated that after the evaluation of the OMR sheet or answer sheet of the written examination the Commission shall prepare and publish in their website with all details of the candidates to be called for personality test medium-wise and gender-wise on the basis of merit. In the said advertisement nowhere mentioned preparation of interview of list or panel/waiting list on the basis of caste categories, as there is no scope of allowing any reservation in case of a single post cadre like that of a Headmaster/Headmistress.

4. Mr. Banshari Bhusan Sarkar, learned Counsel for the appellants has submitted that although the Assistant Secretary & SPIO, West Bengal Central School Service Commission has stated that for the purpose of selection of the Headmaster, the reservation of post is not applicable, however, the Public Service Commission, West Bengal has stated that there is provision for the SC/ST candidates in cases of recruitment to the posts of Headmaster in Government Schools.

5. In clarification, Mrs. Koyeli Bhattacharyya, learned Counsel appearing for the West Bengal Board of Secondary Education has submitted that the West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching staff) Rules, 2017 has clearly excluded the post of Headmaster/Headmistress from the reservation as would be evident from Clause 3(1)(f) of the Rules, 2017.
6. Dr. Sutanu Kr. Patra, learned Counsel appearing for the W.B.C.S.S.C has also clarified by stating that the West Bengal School Service Commission (Selection for appointment to the Posts of Headmaster/Headmistress in Secondary or Higher Secondary and Junior High Schools) Rules, 2016 are specific and that in a school, only one Headmaster can be appointed in a secondary or higher secondary and junior high school.
7. In the affidavit reference has been made to Rule 3 of the 1st SLST(HM) Rules, 2016 which shows that the recruitment to the post Headmaster/Headmistress is by direct recruitment and not by promotion.

8. An exception to the said affidavit filed by the West Bengal Central School Service Commission reply received under the Right to Information Act shows that the reservation of the post is not applicable.
9. The writ petitioner has relied upon the definition of single cadre post under Section 2(j) of the West Bengal Backward Classes (other than Scheduled Castes, Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Act, 2012 and tried to argue that the School Education Department, Government of West Bengal maintains the 100 point roster which is followed by the concerned schools and the Commission and on the basis of which recommendation has been made. Accordingly, any question of reservation for the single post does not arise.
10. Unlike West Bengal School Service Commission (Selection for Appointment to the Posts of Teachers for Classes XI and XII in Higher Secondary Schools) Rules, 2016 or similar Rules for secondary schools which defined category for teaching and non-teaching staff with special reference to reservation, in the instant

case, the Rules for Recruitment for Headmaster/Headmistress, it is by direct recruitment and medium of instruction and gender are the only criterion. It, thus, excludes any reservation due to single post in a school. The 2016 Rules regarding appointment of Headmaster/Headmistress are not under challenge.

11. In view of the fact that it is a single cadre post and it has been duly clarified in the affidavit filed by the West Bengal Central School Service Commission, we are not inclined to interfere with the order passed by the learned Single Judge.
12. On such consideration, the appeal fails.
13. In view of the aforesaid order the appeal being MAT 1186 of 2021 stands dismissed.
14. In view of the dismissal of the appeal, nothing remains to be decided in the application being CAN 1 of 2021 and the same is accordingly dismissed.
15. However, there shall be no order as to costs.
16. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)
J.)

(Soumen Sen,