

WPA 16251 of 2013

28.08.23
Sl-86
Ct.11
(S.R.)

**Pranabesh Samanta
v.
The State of West Bengal & Ors.**

Mr. Mohit Chatterjee ... for the petitioner.

Mr. Pinaki Dhole
Mr. Ritesh Kumar Ganguly ... for the State.

The writ petition has been preferred primarily for the following reliefs :

“ a) Issue a writ in the nature of Mandamus directing the respondents to

i) Act in accordance with law:

ii) Direct the respondents particularly to respondent nos. 3 and 4 and their staffs, agents and/or employee to cancel, forbear and not to give effect any contractual agreement for such recruitment of Block-Accountant at Block-Ghatal under Sarva Siksha Mission, District Paschim Medinipur.

iii) Direct the respondents particularly to respondent no. 2 to verify the spot-evaluation and weightage for higher qualification in the light to guide lines in the notice dated 13.02.2013 (Annexure P-3) and give fresh appointment to the petitioner for the post of

“Block-Accountant” under Sarva Siksha Mission, at Block-Ghatal, District Paschim Medinipur.”

The facts as unfurled in the present writ petition are that the respondents initiated a selection process to fill up the 17 numbers of post of the Block-Accountant on contractual basis for 17 different blocks of the District-Paschim Medinipur under Sarva Siksha Mission and invited applications from the candidates having a B.Com(Honours) Degree under regular course from any recognized Indian University and the certificate of efficiency in Computer covering MS Office and Tally Accounting system together with at least two years' experience in accounting and audit job in Govt./any organization/firm of repute or in any Govt. sponsored project having computer environment.

The petitioner having requisite qualifications offered his candidature for the post for Ghatal Block Unit. The petitioner participated in the selection process and he was shortlisted for appearing in computer test and viva voce which were held on 22.03.2013.

It was claimed in the writ petition that there was no full marks in the examination and there was no system of giving marks. It was also claimed therein that on spot-evaluation and screening and/or elimination, the petitioner was declared to have secured highest rank and

the petitioner expected that he would be selected for the post but with his utter surprise, the private respondent was favoured with the appointment in the post arbitrarily.

The affidavits exchanged by the parties were taken on record.

Mr. Chatterjee appearing for the petitioner arduously submits that no panel was prepared and/or published and though the petitioner secured highest rank yet by adopting a pick and choose policy, the private respondent has been selected and appointed in the post. He contends that appointment and/or engagement in the post is purely on contractual basis and consequently, one agreement was entered into by and between the concerned respondents and the private respondent and hence, the petitioner was constrained to approach this Court by preferring this writ petition.

Drawing my attention to the notice of recruitment dated 13th February, 2023, Mr. Chatterjee strenuously submits that marks were awarded on the basis of spot evaluation and immediately after holding the spot-evaluation, the respondents declared the petitioner to be a successful candidate but no appointment has been given to him. He contends that the private respondent who got the lower marks than the petitioner being the favoured candidate of the respondents has been selected for the post. He submits that a direction may be given upon the

respondents to initiate a fresh selection process and to give appointment to the petitioner in the subject post.

Mr. Dhole, learned advocate appearing for the respondents vehemently opposed such prayers made on behalf of the petitioner. He categorically denies and disputes the contention canvassed by Mr. Chatterjee. He contends that the private respondent secured highest marks and emerged as a successful candidate and hence, she was appointed in the post.

Heard the learned advocates. Perused the materials on record.

From the notice of recruitment dated 13th February, 2013 it would be explicit that the following method was prescribed for selection of the candidate for the post.

“If for any block unit the no. of applicants exceeds ten, then ten applicants having the requisite qualification and experience will be screened and short listed on the basis of marks obtained in B.Com (Hons) only.

They will be called to appear for computer efficiency test and on evaluation of qualification, experience and computer efficiency test maximum three candidates will be called for interview and then the panel of three will be published but the said panel will be treated as cancelled as soon as the post is filled up.”

In reference to the applications made by the petitioner under the relevant provision of Right to

Information Act, 2005, the Public Information Officer, Sarva Siksha Mission, Paschim Medinipur furnished the details of the marks secured by the petitioner and the private respondent by two separate memo. *vide.* dated 13.05.2013 and 28.05.2013 wherefrom it transpires that the selection committee awarded marks for academic qualification , computer test and interview. Taking into account of the total marks obtained in academic qualification, computer test and interview, the candidate were selected. Conjoint reading of the memoranda dated 13.05.2013 and 28.05.2013 reveals that the writ petitioner secured 20.91 whereas the private respondent obtained 23.80 marks. So, it is clear as day that the private respondent secured higher marks than the petitioner. The selection process was held in 2013. The post has been filled up and as per condition contained in the notice of recruitment dated 13.02.2013, the panel has expired.

Mr. Chatterjee claims that after spot-evaluation, the members of the selection committee orally declared that the petitioner secured highest rank. I do not find any substance in such claim of Mr. Chatterjee.

Indisputably, the petitioner participated in the selection process and emerged as an unsuccessful candidate. It is axiomatic that one unsuccessful candidate cannot belatedly turn around and challenge the selection

process alleging irregularities or bias in the process of selection. No different yardstick applied for the private respondent.

Taking stock of the chronological events and resume, I do not find any material to infer that the respondents committed any illegality in the selection process.

In view thereof, no interference is called for in the present writ petition.

Consequently, the writ petition stands dismissed.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee, J.)