

DL-16

18.08.2023
Court No.5
(AD)

WP.ST 113 of 2017
With
IA No.: CAN 1 of 2018 (Old No.: CAN 9615 of 2018)
Ananda Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Kallol Basu
Mr. Nilanjan Pal
Mr. Suman Banerjee ... for the petitioner.

Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar
... for the State-respondents.

Ms. Shraboni Sarkar
... for the Public Service Commission, West Bengal.

The writ petition is directed against an order dated June 23, 2017 passed by the West Bengal Administrative Tribunal in OA-796 of 2015 and OA-97 of 2016. OA-796 of 2015 was at the behest of the writ petitioner.

By the impugned order, the Tribunal considered the challenge of the writ petitioner to the selection process. The Tribunal returned a finding on consideration of the materials produced that, there was apparent irregularity or illegality in the merit list prepared by the Commission and, therefore, refused to set aside the merit list.

Learned Advocate appearing for the writ petitioner draws the attention of the Court to the contents of the impugned order. He submits that, the points raised by the writ petitioner based on a statistical analysis of the data relating to marks obtained by the candidates on the screening test as well as at the interview indicates that,

the conditional probabilities of two applicants who scored 155.33 marks and 147.33 marks in the screening test and 35 and 20 marks only in the interview are closed to (zero). He points out that, the Tribunal held that, these are almost impossible events. Moreover, the Tribunal noted that the two persons were interviewed independently. Therefore, the probability of such an incident occurring was nearly impossible.

State and the Public Service Commission are represented.

The writ petitioner herein participated in a selection process for the post of Motor Vehicle Inspector (Non-Technical). The selection process was governed by the Advertisement No.12(3) of 2013 of the Public Service Commission.

The selection process prescribed that, the candidates will take written test. Thereafter, the candidates will appear in the interview. Petitioner participated in the selection process and took the written examination and also sat in the interview. Petitioner scored 147.33 in the written test and scored 20 in the interview. On aggregate, the petitioner did not make the marks for qualifying into the zone of consideration for appointment. The merit list was prepared by the Public Service Commission on the basis of the marks obtained by the candidates at the written examination and at the interview.

The marks obtained by such candidates in the written examination and the interview was perused by us. In fact, the list of the successful candidates was relied upon by the petitioner himself. From the list of successful candidates, it appears that, a number of persons who scored low marks at the written examination obtained higher marks at the interview and vice versa.

For example, a person who scored 136.67 in the written examination received 80 in the interview. Since the writ petitioner scored 147.33 in the written examination, we perused the list of successful candidates to find out the performance of candidates receiving near about the same marks as the petitioner in the written examination and their performance at the interview. We find that, one candidate received 146 in the written examination but received 45 in the interview. There is another candidate who received 142.67 in the written examination but received 20 in the interview. Therefore, the contention that, every candidate who performed well in the written examination will necessarily perform that well in the interview, is belied by the records placed.

This fact was taken into consideration by the Tribunal while looking into the statistical analysis. The Tribunal returned the finding that although on statistical analysis, it may be said that there was grave

improbability in such incident happening, it was not impossible.

We are not to sit over appeal with regard to the marks awarded in the written examination or in the interview. The marks awarded in the written examination is not challenged or under challenge. What is challenged is the probability of the writ petitioner receiving such low marks in the interview. We are not the appellate authority for the purpose of considering whether or not the writ petitioner should be awarded a higher mark at the interview. We are to see whether the writ petitioner was discriminated against or unfairly treated at the interview or not. We are not minded to return a finding that, the writ petitioner was discriminated against or unfairly treated in the interview. There are a large number of candidates who scored high marks in the written examination but received lesser marks or equal marks with that of the writ petitioner at the interview.

In such circumstances, we find no merit in the present writ petition.

WP.ST 113 of 2017 along with **IA No.: CAN 1 of 2018 (Old No.: CAN 9615 of 2018)** is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

