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Ct-08

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FMA 625 of 2023

with

I.A No. CAN 2 of 2022

Rahul Deb Lahiri

Vs.

The State of West Bengal & Ors.

Mr. S. S. Sarkar

Ms. Indrani Chakraborty

Ms. SardaSha

... For the Appellant

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey

... For the WBCSSC

1. We have heard the learned counsel appearing for the parties.

2. The selection process which was initiated by the West Bengal Central School Service Commission in the year 2010 is now under consideration. In view of the allegation made by the appellant that by reason of manipulation of marks one Biswajit Biswas was given appointment for the post of Clerk under general category.

3. The appellant/writ petitioner relied upon a document appearing at page 17 of the stay application, annexure-B, to show that total marks obtained by the petitioner is more than the marks obtained by Biswajit Biswas. The petitioner has also referred to final result of Clerk and Group-D staff under 1st RLST(NT), 2010 appearing at page 16 of the stay application, annexure-A, which

shows that total marks obtained by the petitioner was 31.34. Before the learned Single Judge the result relating to the selection process for appointment for the post of Clerk relevant to the issue was produced. In addition to the aforesaid, information disclosed under the R.T.I Act was also considered by the learned Single Judge. From the copy of the relevant record that was produced before the learned Single Judge it appears that Biswajit Biswas was awarded 8.47 marks in computer typing and computer proficiency test.

4. In the affidavit-in-opposition filed by the respondent nos. 2,3 and 4 the aforesaid fact is reiterated in sub-paragraph (d) of paragraph 4. The said paragraph reads as follows:-

“It is most respectfully submitted that as per the original records of the Commission which were produced in court in course of the hearing of the Writ Application it is clear that the said Biswajit Biswas has secured 8.47 marks in computer typing and computer proficiency and had a total of 41.47 marks while the Writ Petitioner/Appellant had 6.84 marks in computer typing and computer proficiency and a total of 41.34 marks which is lesser than the said Biswajit Biswas. Accordingly, the said Biswajit Biswas was correctly given the individual rank in the waiting list of MF1 – 1 while the Writ Petitioner/Appellant was given the individual

rank in the waiting list of MF1-2.”

5. Dr. Sutanu Kumar Patra, learned counsel representing the Central School Service Commission, has referred to a document, appearing at page 8 of the affidavit-in-opposition filed by the Commission, which is the computer generated print out from the soft copy regarding the final waitlisted panel report for the post of non-teaching staff 1st RLST(NT)2010. It is submitted by Dr. Patra that the panel was prepared contemporaneously and thereafter two more panels were prepared. Moreover, the selection process relates to selection process of 2010.

6. On such consideration, we do not find any reason to interfere with the order passed by the learned Single Judge.

7. The appeal fails.

8. In view of the aforesaid, the appeal being FMA 625 of 2023 stands dismissed.

9. In view of the dismissal of the appeal, nothing remains to be decided in the application for stay being CAN 2 of 2022 and the same is accordingly dismissed.

10. However, there shall be no order as to costs.

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

(Uday Kumar, J.)

(Soumen Sen, J.)