

WPA 23157 of 2022

Sourav Das & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Chittapriya Ghosh
Mr. Samir Kumar Adhikari
....for the petitioners

Mr. Shaunak Ghosh
Mr. Anindya Sundar Das

...for the respondent No. 8

Mr. Biswabrata Basu Mallick
Mr. Sayan Ganguly
...for the State

The grievance of the petitioners is that they have not been selected for 'Aapda Mitra Scheme' training despite having the necessary eligibility criteria. By an order dated March 1, 2023 this Court directed the State to file an additional report on affidavit on the issue whether the candidates whose names appeared at page 6 of the exception to the report affirmed on January 20, 2023 possessed prior experience certificates in disaster response operations. Furthermore, it had to be explained how the 'cutoff' marks was determined for the said candidates.

Such report on affidavit and exception thereto are filed in Court today and retained with the records.

This Court finds that the standard criteria for selection of community volunteers to be trained under

‘Aapda Mitra Scheme’ was issued by the District Magistrate and Controller of Civil Defence, Jhargram on July 14, 2022. The standard criteria are as follows:

“ 1) Age group from 18 to 40 years/ may be relaxed for Ex-army Officers, retired Medical Professionals, Civil Engineers (as on 01.07.2022).

2) Must be resident of the District of Jhargram.

3) education at least 7th Standard Pass

4) Be in good physical, mental and emotional health (Medical Fitness Certificate mandatory)

5) Prior experience of volunteering in disaster response operations would be preferable.”

Mr. Ghosh, learned Counsel appearing for the petitioners submits that Clause 5 of the Standard Criteria has to be considered along with the other four criteria for selection. Preference under Clause 5 should not be given only in cases whether the candidates have received same marks and there was a question of tie between the candidates. He submits that in the event the petitioners were given preference/weightage under Clause 5 then the petitioners would have been eligible to be sent for training under the said scheme.

He cites a judgment reported in (1993)2 SCC 310 (**Government of Andhra Pradesh vs. P. Dilip Kumar and another**). He submits that when there is a question of preference then that should also be a

relevant criteria in choosing the candidates whether or not there is a question of tie amongst the candidates.

Considering the rival submissions of the parties and the materials placed on record this Court finds that the first four Clauses of the notice dated June 14, 2022 were mandatory. The Clause with regard 'age' could only be relaxed in case of Ex-army Officers, retired Medical Professionals, Civil Engineers (as on 01.07.2022).

Clause 5 of the standard criteria clearly stipulates that prior experience of volunteering in disaster response operations would be preferable. The said criteria is not mandatory.

The authorities have decided that only in the event of a tie existing between the candidates in respect of the first four mandatory criteria of selection the Clause 5 shall be considered for giving preference.

This Court finds no infirmity or arbitrariness in such a policy/administrative decision of the authorities concerned.

The case of **P. Dilip Kumar (supra)** is distinguishable on facts. The selection to the post as per the Andhra Pradesh Engineering Service Rules was to be made from the post-graduate engineers. Since sufficient number of post graduate engineers were not available, the graduates could also be selected for appointment to the post of Deputy Executive Engineer

in different engineering services in the state of Andhra Pradesh. In such a case the Apex Court held that the zone of consideration was narrowed by giving preference to the post-graduate candidates first and thereafter to the graduate candidates. The classification on the basis of higher educational qualification with a view to achieve improvement in administrative performance is not abhorrent to Article 14/16 of the Constitution. In the present case the petitioners cannot in any way argue that they were better qualified than the candidates who were sent for 'Aapda Mitra Scheme' training. In fact the petitioners secured less marks in respect of the mandatory criteria. Since the petitioners secured less marks in respect of the mandatory criteria they wanted the preferential criteria to be included for assessment of their eligibility. The employer is best suited to determine the relevancy and suitability of any post. It is not for the Courts to consider and assess. The view of this Court finds support in an Apex Court judgment reported in (2021)12 SCC 80 (**Chief Manager, Punjab National Bank & Anr. vs. Amit Kumar Das**).

To the mind of this Court, such a course is not permissible. Therefore, the case of **P. Dilip Kumar (supra)** does not come to the aid of the writ petitioners.

In the light of the discussion above, **WPA 23157 of 2022** is **dismissed**.

All parties to act on a server copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Lapita Banerji, J)