

3 11-04-2023
AKG
Ct. 238

WPA 23130 of 2018
Sushanta Kumar Barman
Vs.
State of West Bengal & Ors.

Mr. Ujjal Roy

...for the Petitioner

Mr. Pulak Ranjan Mandal,
Ms. Bandana Mandal,
Mr. Subhrangsu Panda

...for W.B.C.S.C.

The petitioner was an aspirant for the post of Assistant Professor in Education under the Scheduled Caste category. He applied for the said post following the advertisement no. 1/2015 issued by the Commission.

The petitioner's name figured in the panel against serial no. 43 and he opted for being considered against a special vacancy at Sivanath Sastri College. Accordingly, his name along with three other candidates at serial nos. 44 and 45 of the panel was forwarded to the said college. The college however, selected the person, whose name was against serial no. 44. The interview for the said post was held on February 17, 2017 and on March 17, 2017, the petitioner wrote a letter before the commission for re-recommending his name against any other available vacancies. The aforesaid facts have been narrated to highlight the admitted facts of the case.

It is the case of the petitioner that name of one

Srikrishna Sarkar, whose name appeared against the serial no. 46 had been recommended by the commission for the post of Assistant Professor in Education under the Scheduled Caste category at a Nepali Medium College. The petitioner alleges discrimination as he had secured a superior rank in the panel.

By an order dated January 19, 2023, this Court directed the college service commission to file a supplementary affidavit disclosing the number of requisitions received by it for the post of Assistant Professor in Education under the Scheduled Caste category following the relevant advertisement. The commission was also directed to disclose the number of posts of Assistant Professor under the Schedule Caste category filled up against the said requisition in the relevant recruitment year. The commission was further directed to disclose the date on which it recommended the last candidate for the said post.

The relevant part of the supplementary affidavit affirmed on behalf of the college service commission in terms of the said order is quoted below :-

“I state that number of requisitions received by the West Bengal College Service Commission (hereinafter referred to as “the said Commission”) for the post of Assistant Professor in Education under Scheduled Caste Category following the Advertisement No. 1/2015 is 44 (Forty four).

I state that the number of posts of Assistant Professor under the

Schedule Caste category filled up against the said requisitions in the relevant recruitment year is also 44 (Forty four)

I state that the last candidate recommended for the said post is 3rd March, 2017.

I state that due to non-availability of vacancy in the post of Assistant Professor in Education under Scheduled Caste category following the Advertisement No. 1/2015 the petitioner could not be recommended.

I state that after conclusion of selection process following the Advertisement No. 1/2015, selection process on the basis of Advertisement No. 1/2018 dated 16.07.2018 was also concluded and at present selection process on the basis of Advertisement No. 1/2020 is continuing.”

The petitioner, despite providing an opportunity, has not taken any exception to the said supplementary affidavit.

From the said supplementary affidavit filed by the commission, it is therefore clear that for the relevant recruitment year, there were a total number of 44 vacancies, all of which had been filled up by March 3, 2017. The petitioner made a request on March 17, 2017 for re-recommending his name. Unfortunately, as on that day, there was no available vacancy against which the name of the petitioner could be recommended.

Mr. Roy, learned advocate appearing for the petitioner places reliance upon the Regulations namely, “Regulations regarding manner of selection of Persons for

Appointment to the posts of Assistant Professors, Principals and Librarians in Government aided Colleges in West Bengal”.

By referring to Regulation 9 (9), it has been submitted by Mr. Roy that the commission was under obligation to re-recommend the name of the petitioner as soon as it noticed that name of the petitioner against the special vacancy was not considered.

A bare reading of the aforesaid regulation as relied upon by Mr. Roy does not persuade this Court to hold that any such obligation is cast upon the commission. When the petitioner was not appointed against the special vacancy, he could have brought the said fact to the notice of the commission at the earliest. The said fact was brought before the commission by the petitioner only on March 17, 2017. By that time, the commission had filled up all the available vacancies.

I am of the view that the commission was not under any obligation to take suo motu notice of non-selection of the petitioner against the special vacancy.

I also find no illegality in recommending the name of the candidate, whose name appeared against serial no. 46 of the merit list. His name had been recommended before the petitioner notified commission as to his non-selection against the special vacancy.

It was a further case of the petitioner that said Srikrishna Sarkar did not opt for a Nepali Medium

College, the commission could not have recommended his name for the relevant college. I cannot permit the petitioner to take this point since admittedly, the petitioner also did not opt for a Nepali Medium College.

I am also of the view that the action of the commission in recommending the name of the candidates appearing against serial no. 46 of the merit list does not call for any interference.

WPA 23130 of 2018 is accordingly, found to be devoid of any merit and the same is, accordingly, dismissed.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)