

30.06.2023

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Sl. No. 13

Ct. No. 12

WPCT 363 of 2013

Pranab Kumar Biswas and others

-Versus-

Union of India and others

Mr. Biplab Guha

.....for the petitioners

Mr. Ajit Kumar Chaubey

.....for the respondents

The petitioners in response to the notification dated 24.10.1997 issued to fill up backlog vacancies of scheduled castes and scheduled tribes candidates, applied for the said post. The respondents prepared a panel consisting of 94 candidates including petitioners namely 52 scheduled castes and 42 scheduled tribes candidates. According to petitioners, the respondents gave appointment to few candidates from the panel by pick and choose method. They filed OA Nos.341 of 2000, 349 of 2000 and 649 of 2002 before the Tribunal but pending OA respondents cancelled the panel.

The petitioners amended the prayer in the OA and challenged the cancellation of the panel list.

The Tribunal by the order dated 29.6.2004 set aside the cancellation of panel list and directed the respondents to scrutinise the application of all the candidates. After scrutinising the applications as per the orders of Tribunal, the respondents issued appointments only 52 candidates and rejected 42

candidates as per the grounds mentioned therein. The petitioners filed O.A.No.1077 of 2005 before the Central Administrative Tribunal, Calcutta Bench challenging the rejection order.

The Tribunal by an order dated 22.3.2007 directed the respondents to consider the application of the petitioners and passed speaking order after giving opportunity to the petitioners. The petitioners filed contempt petition in O.A. No.1077 of 2005 for non-compliance of the order dated 22.3.2007 passed in O.A.1077 of 2005. The Tribunal by the order dated 7.8.2009 dismissed the contempt petition.

The respondents by the order dated 8.6.2007 rejected the application of the petitioners. Challenging the said order, the petitioners filed OA No.1750 of 2010 before the Tribunal. The respondents filed reply enclosing copy of the applications of the petitioners and submitted that the applications of the petitioners were incomplete and, hence, their applications were rejected.

The Tribunal considering the conditions mentioned in the Notification dated 24.10.1997, failure on the part of the petitioners to comply the conditions mentioned in the notification, dismissed the OA No.1750 of 2010.

Against the said order of dismissal dated 12.3.2013, passed in OA No.1750 of 2010, the petitioners had come up with the present writ petition.

It is the contention of the learned counsel appearing for the petitioners that the candidatures of the petitioners were rejected on the ground of defects in their applications.

The respondents had given opportunity to some of the candidates to rectify their defects but the said opportunity was not given to the petitioners. The respondents ought to have given opportunity to the petitioners to rectify the defects and gave appointment to the petitioners.

On the other hand, it is the contention of the learned counsel for the respondents that as per the orders of the Tribunal, all the applications were scrutinised and applications with defect were rejected.

The applications of the petitioners were incomplete in form and, hence, their applications were also rejected.

Heard learned counsel appearing for the parties. Perused the materials on records.

From the above materials, it is seen in the notification dated 24.10.1997 inviting for applications, the respondents had categorically mentioned that the applications would be rejected stating as follows:

“Application with overwriting or erased incomplete or incorrect entries are liable to be rejected.”

The petitioners were aware at the time of filling up the applications that they had to fill up each and every column correctly but should not be overwriting or erase

or incomplete form. The petitioners were also well aware of the conditions imposed in the said notification.

Along with the reply filed by the respondents, petitioners had filed applications before the Tribunal. The Tribunal scrutinising the said applications, found the defect as mentioned by the respondents. Even in earlier OA No.349 of 2002, the Tribunal had directed the respondents to consider all the applications received including the applications of the petitioners and reject the applications with defect and gave appointment, if applicants had fully complied with the conditions. The order reads as follows:

“Considering the above submissions made by the Id. Counsel for both the parties, the order dated 07.03.2000 keeping the panel in abeyance and subsequent order dated 31.05.2000 cancelling the entire selection are hereby set aside/quashed. The respondent authorities, more particularly, respondent No. 3 and 4 are hereby directed to scrutinise the applications of 94 selected candidates, who had been selected pursuant to notifications dated 24.10.97 and 10.03.98 afresh and if their applications are found to be in order in all respects and correct marks have been awarded in respect their educational qualification as per the prescribed norms of selection, then orders of appointment, which were issued in their favour be given effect to. The respondent authorities will be at liberty to cancel the offer of appointment in respect of those candidates, out of the 94 earlier selected candidates whose applications shall not be found to be in order and in whose case correct marks have not been awarded on their educational qualification as per the prescribed norms/procedure. So far as the other candidates are concerned, whose applications are actually valid/ in order and which were wrongly rejected, the respondent authorities are at liberty to re-scrutinise their applications again and those applications which will be found to be in order from amongst those rejected applications, a special selection test may be conducted limited to those candidates. The respondent authorities may accommodate the selected candidates in this fresh selection test against future available vacancies. The candidates who have been appointed on the basis of subsequent selection test on the

basis of second notification shall be adjusted only after adjusting the first 94 selected persons, whose applications after afresh scrutiny as directed shall be found to be in order and in whose case also corrected marks have been awarded on their educational qualification. In other words, they may be accommodated first as per the merit list already prepared and if some persons from amongst them are left out to be appointed due to non-availability of vacancies they may be accommodated first as against the future vacancies meant for the SC/ST.

All the OAs are accordingly disposed of with the above observations/directions. No order as to costs.”

After this order, the respondents considered all the applications afresh and gave appointment to 29 SC candidates and 15 ST candidates and rejected 42 candidates including the petitioners by giving valid reasons.

There is no error in the order of the respondents rejecting the applications of the petitioners. The Tribunal considered entire materials on record and passed order.

The contention of the learned counsel for the petitioners that except the petitioners, others were permitted to rectify the defects was denied by the learned counsel for the respondents. The learned counsel for the respondent submitted that all the defected applications were rejected and there is no discrimination. The same was not denied by counsel for the petitioners.

In view of above, we do not find any reason to interfere with the order passed by the Tribunal. Hence, the writ petition fails and is dismissed.

There will be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)