

WP.CT. 154 of 2019

(Pradyut Pal Vs. Union of India & Ors.)

Mr. Ujjal Roy

Mr. Arpa Chakraborty

..... For the petitioner

Mr. Asok Bhowmick

..... For the respondent

The present writ petition has been preferred challenging an order dated 20th of September, 2018 passed by the learned Tribunal in the original application being O.A. No. 986 of 2017.

Mr. Roy, learned advocate appearing for the petitioner submits that the petitioner, upon emerging to be successful in the selection process, was empanelled as an Act Apprentice. After successful completion of training, he was issued a letter of provisional appointment on 27th December, 2004. He thereafter filled up the verification form stating that he had passed Class-VIII from Goaberia High School, Howrah (in short, the said school). He took admission in the said school on 19th February, 1980 and left the school on 31st December, 1988. As the respondents thereafter did not allow the petitioner to join, he was constrained to prefer an original application being OA No. 350/01449/2016, which was disposed of on 21st March, 2017 directing the respondent no.2 therein to consider the petitioner's representation dated 22nd December, 2015. Pursuant to such direction an order was passed by the respondent no. 2 herein rejecting the petitioner's claim. Aggrieved thereby, the petitioner preferred another original application being

OA No. 986 of 2017 which was rejected by the order impugned in the present writ petition.

Drawing our attention to the contents of the order impugned, Mr. Roy submits that the learned Tribunal framed a question to the effect that '*who is the issuing authority of the Transfer Certificate and which school had issued the transfer certificate as the identity on both fronts are totally illegible in the transfer certificate dated 7.6.1994*'. In view thereof, the learned Tribunal ought to have relegated the matter for consideration of the said question to the competent authority instead of rejecting the original application.

Mr. Roy, submits that the letter dated 31st March, 2005 issued by the previous Headmaster of the said school ought not to have been treated as sacrosanct and on the basis of the same the transfer certificate issued by the competent authority could not have been disbelieved.

He further submits that there was also no reason to doubt the veracity of the subsequent letter issued by the Headmaster of the said school dated 14th July, 2017. In the said conspectus, the order impugned needs to be set aside with proper direction upon the competent authority to consider the petitioner's claim afresh.

Mr. Bhowmick, learned advocate appearing for the respondents, however, denies and disputes the contention of Mr. Roy. Drawing our attention to the contents of the letter dated 25th January, 1998, he submits that there was a specific clause stating '*your candidature will be cancelled if any irregularity is found at later stage*'. In the provisional letter of appointment dated 27th December, 2004 there was

also a clause to the effect '*you are hereby warned that if any false/misleading information is furnished or there has been suppression of any factual information in the application form, your service would be liable to be terminated*'. In view thereof, the respondents had every jurisdiction to cancel the candidature of the petitioner, since the document towards his qualification was certified to be fake by the Headmaster of the said school *vide* letter dated 31st March, 2005.

He further argues that the letter dated 31st March, 2005 issued by the Headmaster of the said school was not challenged by the petitioner. He, however, annexed a further letter issued by another Headmaster of the said school on 14th July, 2017, indisputably subsequent to filing of the original application being OA 986 of 2017.

According to Mr. Roy, the learned Tribunal upon considering the factual issues arrived at specific findings and the same does not suffer from any infirmity warranting interference of this Court.

Heard the learned advocate appearing for the respective parties and considered the materials on record.

Indisputably, the transfer certificate dated 7th June, 1994 in course of verification was not found to be genuine, as would be explicit from the letter dated 31st March, 2005 issued by the then Headmaster of the said school upon scrutinizing the official records. The effect of the said letter dated 31st March, 2005 had been sought to be disputed by producing a new certificate dated 14th July, 2017, i.e., about 12 years after the issuance of the certificate dated 31st March, 2005 and even subsequent to filing of the original application being O.A. 986 of 2017.

In the said conspectus, the learned Tribunal rightly did not grant any weightage to the said certificate dated 14th July, 2017, moreso when the same was bereft of a memo number.

The argument of Mr. Roy that the matter needs to be relegated for further consideration in view of the question framed by the Tribunal, as quoted above, is not acceptable to us. Considering the documents produced, the learned Tribunal rightly refused to exercise discretion in favour of the petitioner and we also not find any patent error of law in the order impugned, warranting interference in the present writ petition.

Accordingly the writ petition WP.CT 154 of 2019 is dismissed.

There shall, however, be no order as to costs.

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

(Uday Kumar, J.)

(Tapabrata Chakrabaorty, J.)