

Item-20. 18-12-2023

sg Ct. 8

MAT 2347 of 2023
CAN 1 of 2023

Nabanita Jana
Versus
The State of West Bengal & Ors.

Mr. Siddhartha Banerjee, Adv.
Mr. Sudipta Dasgupta, Adv.
Mr. Sondwip Sutradhar, Adv.
...for the appellant
Mr. Sirsanya Bandyopadhyay, Adv.
Ms. Tapati Samanta, Adv.
...for the State

1. The appeal is arising out of an order dated 1st December, 2023 in a writ petition in which the grievance of the writ petitioner was that she was not allowed to appear in the interview for the post of Librarian in Rural Libraries in the District of Purba Medinipur. The learned Single Judge has dismissed the said writ petition and hence, this appeal.
2. Briefly stated; the appellant is an aspirant for the said post. She was successful in the written test but she was not called for the interview. According to the writ petitioner, as per the relevant advertisement and the Recruitment Rules, the authorities should have called her for the interview in the ratio of 1:5 against the notified vacancies.
3. The recruitment notice has laid down four essential qualifications which, inter alia, include basis knowledge in computer application and total marks awarded for computer knowledge is 10 marks. To the utter surprise of the writ petitioner, she found that the selection committee has decided a cut off marks for computer test. The pass mark of the Board Examination which is a qualifying

academic standard was considered as the cut off marks for the computer exams. The appellant challenged the criteria of such cut off marks in the absence of any indication in the advertisement.

4. The learned single Judge in deciding the writ petition was of the view that the criteria for computer test was introduced before the advertisement was published and as such, it cannot be considered a case where the rule of game was changed after it had started.
5. Mr. Siddhartha Banerjee, learned Counsel appearing on behalf of the writ petitioner has submitted that the recruitment notice, however, refers to the basis knowledge in computer application as one of the essential qualifications and it does not prescribe any cut off marks. The advertisement is also silent about it. The State respondents could not have introduced a cut off marks after the advertisement thereby changing the rules of game. The candidates are entitled to know prior to participation in the examination that they would not be eligible for interview if they do not secure 3 marks out 10 marks. It is curious that for a candidate who is required to be appointed as Librarian in the Sponsored Public Library would be deprived of being allowed to participate in the interview only because the candidate has secured a mark less than 3 although he performed well in the written examination, academic qualification and professional qualification. Mr. Banerjee has further submitted that the computer test is inconsequential and cannot be treated

alike with a degree in Library Science. The appellant having secured 21 marks in the written examination cannot be deprived of participating in interview merely because his score was only 1.75 marks in the computer test which is less than 3 marks. Mr. Banneree in this regard has relied upon three decisions of the Hon'ble Supreme Court i.e. (i) ***K. Manjusree vs. State of Andhra Pradesh & Anr.*** reported in ***(2008) 3 Supreme Court Cases 512***; (ii) ***Yogesh Yadav vs. Union of India & Ors.*** reported in ***(2013) 14 SCC 623*** and (iii) ***Goa Public Service Commission vs. Pankaj Rane & Ors.*** reported in ***(2022) 11 SCC 742***. Mr. Banerjee has submitted that the ratio of the aforesaid decisions clearly held that after the selection process commenced, the authorities cannot change the rules of the game.

6. Per contra, Mr. Sirsanya Bandyopadhyay, learned Counsel for the State respondents has submitted that in the notification dated 15th March, 2023, computer knowledge is one of the essential qualifications. The cut off marks for the computer test was mentioned in the Memo No. 471(24)/LS dated 2nd May, 2023, in which it has been categorically stated that the basic computer knowledge is the essential qualification as per Recruitment Rules and the pass mark of the Board Exams, which is the qualifying academic standard, may be considered as the cut off marks for the computer examinations. Mr. Bandyopadhyay has submitted that the view taken by the selection committee cannot be the subject matter of judicial review when particularly it pertains to qualifications in view of the

decision of the Hon'ble Supreme Court in ***Rameshwar Dass Mehla vs. Om Prakash Saini & Ors.*** reported in ***(2010) 15 SCC 790*** (para 6).

7. He has referred to the chart produced by him in terms of our earlier order and submits that the chart would show that even the candidates who may have performed well in the written examination were not called for interview as they could not secure the cut off marks and as such, it cannot be contended that there has been any discrimination. It is submitted that if the interpretation given by Mr. Siddhartha Banerjee is accepted then a candidate securing zero mark in computer test would be eligible for interview. The decision for the cut off marks by the selection committee has a rational basis as a librarian is also expected to have the basic knowledge in computer and it is one of the essential qualifications for the post. The persons who have been called for interview, have all secured marks over and above the cut off marks and accordingly, were selected.
8. In the aforesaid conspectus, the issue is required to be decided. We accept the submission of Mr. Bandyopadhyay that the selection committee would have the discretion to evolve a criteria for computer knowledge. It is a panel of experts. They have deliberated on the issue and a decision with regard to cut off marks have been taken prior to the date of advertisement i.e. on 2nd May, 2023. It is true that the said decision was adopted by the selection committee in its meeting held on 3rd November, 2023 however, that by itself would not dilute the decision taken earlier and

prior to the advertisement with regard to the cut off marks to be applied for candidates having computer knowledge.

9. In fact, ***K. Manjusree*** (supra) supports the view we have taken in this regard. In paragraph 33 of the said decision, the Hon'ble Supreme Court has specifically said that if the selection committee wants to prescribe minimum marks for interview, it should do so before the commencement of selection process. In the instant case, the selection committee has merely followed the notification which gives a guideline with regard to cut off marks for the computer knowledge and found it be rational and acceptable.
10. We agree with the observation of the learned Single Judge that if we accept the contention of the petitioner that under all circumstances the authorities are mandated to call candidates for interview in a 1:5 ratio against the notified vacancy, the relevance of computer knowledge becomes redundant, as in such an event, if a candidate does not secure any marks or zero mark in the computer test, would be allowed to participate in the interview. This was not the object of the selection and cannot be the proper interpretation of recruitment rules.
11. The learned Single Judge, in our view, has rightly observed that:

“If the number of candidates successful in the computer test exceeds the number derived from applying the 1:5 ratio against the notified vacancy, only then the candidates in the ratio of 1:5 should be called for the

interview. Conversely, if the number of qualified candidates in the computer test is less than the calculated 1:5 ratio, only the successful candidates in the computer test should be allowed to partake in the interview.

It cannot be said the authority acted beyond the scope of recruitment rules or the scope of advertisement. Mr. Bandyapadhyaya has rightly pointed out that criterion for computer test was introduced before the advertisement was published and as such, it is not the case where the rules of the game was changed after it had started.”

12. The interpretation that is reasonable has to be accepted.
13. On such consideration, we do not find any reason to interfere with the order of the learned Single Judge. The appeal fails. However, there shall be no order as to costs.
14. In view of dismissal of the appeal, there is no need to pass any direction in the application. The application is accordingly, disposed of.
15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)