

Court No. 17

WPA 29659 of 2017

15.06.2023

(AD 1)

(S. Banerjee)

Suman Sarkar

Vs.

The State of West Bengal & Ors.

Mr. Sudipta Dasgupta

Mr. Arka Nandi

Mr. Saikat Sutradhar

... for the petitioner

Mr. B. Basu Mullick

... for the State

Mr. Saikat Banerjee

Mr. Ratul Biswas

Mr. Kaushik Chowdhury

... for the WBBPE

By the purported reasoned order dated 02.06.2023, the Deputy Secretary of the West Bengal Board of Primary Education held that the petitioner conveniently shifted his category and claims to be a SC category candidate in spite of being merit-listed and empanelled and even served with the appointment letter.

From the admit card it appears that in support of the category it was written that the petitioner's category was, as per the code given in the reverse of the admit card, (at page 4 of the supplementary affidavit), is 42. Code 42 stands for Scheduled Caste category. Regarding category 2 in the admit card for which code list is under the heading E of the same reverse the category for Ex-Servicemen is 47. It is never written in the admit card which was filled up by the petitioner at the time of filing

the application that he applied for category 47. This admit card and its reverse page (page 4 of the supplementary affidavit of the petitioner affirmed on 13th June, 2023) was shown to the Deputy Secretary at the time of hearing in connection with which the purported reasoned order was passed by the Deputy Secretary.

The Deputy Secretary, for the reasons best known to him, ignored the document printed by his authority i.e. the Board and held that the petitioner after empanelment as a Ex-Serviceman category candidate and as recommendation letter was issued against that category, the recommendation was cancelled for the petitioner's failure to produce necessary documents as he now cannot change his stand.

The whole order passed by the Deputy Secretary is wholly unreasonable and dishonest to say the least.

Today showing the role number of the candidate, i.e., 085030050, it has been argued on behalf of the Board that from the role number it is found that the petitioner applied for Ex-Serviceman SC category. Fact is, this role number was not put by the candidate. It was the creation of the Board. What was put by the candidate was category 42 and no other thing was put by the candidate against category 2 while filling up the

form in the part of the admit card for TET 2014 (Annexure P-1 at page 3 of the supplementary affidavit).

The Board has produced a piece of paper calling it 'digitised data' and nobody knows how this data was gathered and printed and it is to be noted that the OMR sheets have been destroyed for the reasons known to the Board. This digitized data paper, as has been produced by the Board, is clearly not acceptable to this court as it does not have any authenticity. No signature is there also, on behalf of the Board.

Mr. Banerjee, learned advocate for the Board, not only produced the said piece of paper saying it digitized data of OMR sheets, he also indicated by encircling at the last line of the said digitized data showing "Ex-Serviceman". This is clearly against the admit card as was filled up by the candidate/petitioner.

Mr. Dasgupta, learned advocate for the petitioner, submits that the admit card (Annexure P-1 of the supplementary affidavit) is the only admit card which was issued by the authority for TET 2014 and it was also the admit card for the recruitment procedure. There was no separate admit card for the recruitment procedure.

Therefore, I quash and set aside the order passed by the Deputy Secretary dated 02.06.2023 as the same is unreasonable, dishonest and baseless and I impose a

cost of Rs. 20,000/- for such an order of the Board while deciding a matter which relates to a candidate's future. Out of this Rs. 20,000/-, an amount of Rs. 4,000/- is to be paid to the petitioner and the rest of the amount is to be paid to Calcutta High Court Legal Services Committee within a period of two weeks from date i.e., by 29th June, 2023.

As the petitioner participated in 2016 recruitment process in respect of which a large number of candidates' appointments have been set aside by this court, no further relief in respect of this 2016 recruitment, in which the petitioner took part, can be granted to the petitioner except the order that the cancellation of the petitioner's appointment by the Board is to be treated as set aside can be raised by the petitioner if and when situation will arise and the petitioner should be allowed to participate in the de novo recruitment process, as has been directed by this court in WPA 21187 of 2022 (Priyanka Naskar -Vs.- Union of India & Ors.).

With the above observation, this writ application is allowed.

The purported digitized data produced by the Board today at the time of hearing, is kept on record.

(Abhijit Gangopadhyay, J.)