

10.01.2024
Item No. 13
Crt.No.22
b.r.

WPA 149 of 2020
with
IA No. CAN 1 of 2023

Krishna Chandra Hore
-vs-
The State of West Bengal & Ors.

Mr. Washef Ali Mondal
..... for the petitioner.

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
.... For the State.

Affidavit affirmed by the petitioner on December 4, 2023 filed today in Court, is taken on record.

The petitioner was a successful candidate for the post of **Headmaster** in the **State Level Selection Test-2017**. The petitioner on **November 25, 2019** was recommended by the **Central School Service Commission, annexure P-4 at page-23** to the writ petition for the post of Headmaster at one **Toryal High School (H.S.), Dakshin Dinajpur**. The petitioner did not join at the said school and filed this writ petition on or about **January 3, 2020** during the **subsistence of the panel**.

The petitioner contends that since the recommended Headmaster did not join at one **Balurghat Kabitirtha Vidyaniketan (H.S.), District- Dakshin Dinajpur**, the Commission should have mentioned this vacancy before the counselling took place in which the petitioner had

participated and received the recommendation for Toryal High School.

The specific case made out in the writ petition that one Sri Krishnasish Goswami though was recommended for **Balurghat Kabitirtha Vidyaniketan (H.S.)** and since he did not joint there, the vacancy had cropped up, **annexure P-3 at Page-21** to the writ petition. Krishnasish then was recommended for a different school, namely, **Barisha Sashibhusan Janakalyan Vidyapith, Kolkata at page-22** to the writ petition.

Through the instant writ petition, the petitioner prayed for a fresh recommendation for the said vacant post of Headmaster at Balurghat Kabitirtha Vidyaniketan (H.S.).

Mr. Washef Ali Mondal, learned advocate appears for the petitioner. He submits that by not reflecting the vacancy at Balurghat Kabitirtha Vidyaniketan (H.S.) school for the post of Headmaster as Krishnasish did not join there, the Central School Service Commission acted in an illegal and arbitrary manner and in violation of the relevant statutory rules and the rule of the relevant selection process. Had Balurghat Kabitirtha Vidyaniketan (H.S.) been indicated before the counselling in which the petitioner had participated, the petitioner could have easily opted for the same. Thus the petitioner deserves to receive a recommendation and consequential appointment at the

said Balurghat Kabitirtha Vidyaniketan (H.S.), which is nearer to his residence.

Dr. Sutanu Kumar Patra, learned counsel with Ms. Supriya Dubey, learned counsel appearing for respondent nos. 4 and 5 placed reliance on the stand of the Commission as would be evident from the affidavit report affirmed on **November 3, 2021**. The stand of the Commission mentioned in the report, **annexure R-1 at page-5** to the said affidavit report is quoted below:-

“ One Krishna Chandra Hore filed the W.P. No. 149(W) of 2020 before the Hon’ble High Court, Calcutta. On going through the writ petition it came to knowledge that the petitioner was a candidate of 1st SLST(HM), 2017, a selection process of the post of Headmaster/Headmistress. It appears from record that the name of writ petitioner was included in waiting list in SL. No. 756 in Male/Female category and he was called for 3rd phase counselling on 25.11.2019. He attended the counselling and opted for Torgal High School(H.S.) and recommendation letter for appointment was issue in favour of the writ petition on 25.11.2019. Now, he has claimed for recommendation for appointment in Balurghat Kabithrtha Vidyaniketan which was included in the final vacancy list of 1st SLST (HM), 2017.

The vacancy of the post of Headmaster of Balurghat Kabitirtha Vidyaniketan was included in the final vacancy list. It appears that the post of Headmaster of Balurghat Kabitirtha Vidyaniketan has been running vacant on and from 29.08.2019 and the vacancy should have been displayed at the time of 3rd

phase counselling held on 25.11.2019. It has been learnt from the District Inspector of Schools (S.E.), Dakshin Dinajpur that the said vacancy still exists. As the said vacancy, was not shown in the vacancy list before 3rd phase counselling the Commission may be allowed to notify the vacancy of Balurthat Kabitirtha Vidyaniketan and fill up the said vacancy on the basis of the merit of candidates from the 3rd phase counselling. If the turn of petitioner comes on the order of merit, then the petitioner may also be considered.”.

The above report was prepared on **October 4, 2021**.

The further stand taken by the respondent nos. 4 and 5 in its affidavit report is also quoted below:-

“ 7. In terms of the solemn order dated 27.1.2020 passed in WP 149(W)/2020 a report has been prepared by the Secretary of the Commission wherefrom it is evident that the vacancy in the post of Headmaster of Balurghat Kabitirtha Vidyaniketan was included in the final vacancy list. However, at the time of 3rd phase counselling the vacancy was inadvertently not show amongst the available vacancies. However, the vacancy is still available as has been informed by the concerned District Inspector of Schools and the same may be filled up on the basis of merit.

A copy of the report dated 04.10.2021 is annexed hereto and marked with the Letter “R-1”.”

In course of the submissions, Dr. Sutanu Kumar Patra has further confirmed this Court that it was really an inadvertent and *bona fide* mistake on the part of the Commission by not reflecting the said vacancy at Balurghat

Kabitirtha Vidyaniketan (H.S.) in the final vacancy list for 3rd phase counselling and the post still remains vacant.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, it appears to this Court that the petitioner having received the recommendation for the post of Headmaster for Toryal High School on November 25, 2019 became aggrieved after knowing the fact that the vacancy was available at Balurghat Kabitirtha Vidyaniketan (H.S.) and immediately filed the instant writ petition, without joining the school recommended for him. After all the petitioner has qualified in the cut throat competition of the relevant selection process. The petitioner is otherwise eligible and found to be so through the said long drawn rigorous selection process for the post of Headmaster. It is also an admitted fact that the post of Headmaster at the Balurghat Kabitirtha Vidyaniketan (H.S.) still lying vacant.

In such circumstance, the equity demands that the petitioner may be accommodated at the said Balurghat Kabitirtha Vidyaniketan (H.S.), Dakshin Dinajpur by issuing a fresh recommendation by the Central School Service Commission.

For the forgoing reasons and discussions, the **respondent no.4** shall issue a fresh recommendation in favour of the petitioner for the post of **Headmaster** at **Balurghat Kabitirtha Vidyaniketan (H.S.), District-**

Dakshin Dinajpur positively within a period of **four weeks** from the date of communication of this order and all consequential steps including the issuance of appointment letter shall also be done simultaneously.

It is made clear that this order shall not be treated as a precedence in any manner.

With the above observations and directions, this writ petition, **WPA 149 of 2020** stands **disposed of**, without any order as to costs.

The connected application being **IA No. CAN 1 of 2023** also stands **disposed of**.

(Aniruddha Roy, J.)