

ML 49
02.09.2024
Ct. No. 18
adeb

W.P.A. 2340 of 2022

**Avijit Das
Vs.
The State of West Bengal & Ors.**

Mr. Biswarup Biswas
Mr. Pratap Sanfui
Mr. Subhadeep Maitra
...for the petitioner

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
...for the WBCSSC

Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey
...for the State

Matter relates to selection of the petitioner as headmaster based on 1st State Level Selection Test 2017 which was conducted by the West Bengal Central School Service Commission for recruitment in the post of headmaster/headmistress. Today, a report has been filed on behalf of the West Bengal Central School Service Commission in the form of affidavit affirmed on 7th August, 2024 and the same is taken on record.

It has been disclosed in the report that in the merit list the last candidate who obtained 63 marks was permitted to participate in the interview whereas petitioner could not be permitted to participate in the interview since it was subsequently found that on academic record petitioner was wrongly awarded 25 instead of 22. According to the Commission if 22 marks is reckoned for academic performance of the petitioner in

that event the total marks of the petitioner would be 61. According to the Commission based on the clarification issued by the Commission dated 7th January, 2021 relating to marks which was awarded to the petitioner, he could not be permitted to participate in the interview and the candidate who secured 63 marks was rightly allowed to participate in the interview. It is also submitted on behalf of the Commission that on identical issue another writ petition has been preferred by the petitioner being WPA 11324 of 2020 and the same is pending for consideration.

Mr. Biswarup Biswas, learned advocate representing the petitioner submits that both the writ petitions can be heard analogously. In addition thereto, it is also submitted that the clarificatory order of the Commission relating to awarding marks to the petitioner dated 7th January, 2021 has given rise to fresh cause of action which triggered the present writ petition in spite of pendency of the previous writ petition being WPA 11324 of 2020.

On perusal of the present writ petition it appears that order of the West Bengal Central School Service Commission dated 7th January, 2021 has been questioned in the present writ petition at the stage when the previous writ petition being WPA 11324 of 2020 is pending and the order was passed by a coordinate Bench on 8th January, 2021 taking note of the order of the West

Bengal Central School Service Commission dated 7th January, 2021. Relevant part of the order dated 8th January, 2021 passed by the coordinate Bench on the writ petition being WPA 11324 of 2020 is quoted below:-

“Mrs. Dubey, learned advocate appearing for the Commission has produced before this Court a memo dated 7th January, 2021 where it has, inter alia, been stated that due to a typographical mistake it was indicated that in respect of academic record, the petitioner had obtained 25 marks though he only secured 22 marks. Let a copy of the said memo, as produced, be kept on record. A copy of the same has been handed over to Mr. Basu in Court today to enable him to avail necessary instruction.

List this matter for further consideration in the daily supplementary list of this Court on 14th January, 2021 under the heading “To Be Mentioned”.

Petitioner filed another writ petition being the first writ petition, WPA 7179 of 2019 which was disposed of by an order dated 14th January, 2020 requesting the Secretary of the Commission to consider petitioner's application under Right to Information Act. Pursuant thereto a memo dated 11th February, 2020 was communicated to the petitioner disclosing the marks obtained by the last candidate who was permitted to appear in the interview. From 11th January, 2020 communication of the Commission petitioner came to know that the candidate who secured 63 marks was permitted to participate in the selection process whereas petitioner in spite of securing 64 marks was left out. That was the cause of action for filing the second writ petition being WPA 11324 of 2020 and during hearing of that second writ petition the Commission disclosed

clarification dated 7th January, 2021 whereby it was disclosed that instead of 25 petitioners ought to have been awarded 22 for academic performance resulting in correction of total marks of the petitioner from 64 to 61. The coordinate Bench on 8th January, 2021 having considered the clarificatory decision of the Commission dated 7th January, 2021 directed the learned advocate representing the petitioner to obtain necessary instruction. Petitioner instead of pursuing his remedy in the writ petition being WPA 11324 of 2020 filed the present writ petition questioning the validity of the clarificatory decision of the Commission dated 7th January, 2021. This Court finds that similar issue is under consideration in the second writ petition being WPA 11324 of 2020, therefore at this stage the present writ petition is not maintainable.

Accordingly, the writ petition being WPA 2340 of 2022 stands dismissed.

However, this order shall not preclude the petitioner to pursue his relief in the pending writ petition being WPA 11324 of 2020.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)