

Court No. 22
10.01.2024
(Item No. 8)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 3690 of 2013

Kumari Sumana Bhattacharyya
VS
The State of West Bengal & Ors.

Mr. Sajal Kanti Bhattacharyya
Mr. Sarthak Barman
..... for the petitioner
Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
.... For respondent Nos. 2-4

This is a hearing matter upon affidavits.

On the prayer of Dr. Sutanu Kumar Patra, learned counsel appearing for respondent Nos. 2 to 4, time to file affidavit-in-opposition stands extended till today. Affidavit-in-opposition affirmed on December 11, 2023 on behalf of respondent Nos. 2, 3 and 4 filed today in Court is taken on record.

Similarly, on the prayer of Mr. Sarthak Barman, learned advocate appearing for the petitioner time to file affidavit-in-reply stands extended till today. Affidavit-in-reply affirmed on January 8, 2024 by the petitioner filed in Court today is taken on record.

The petitioner was an aspirant in the **12th Regional Level Selection Test (RLST, 2011)** for the post of **Assistant Teacher** for the subject **Geography**. **The panel had expired on March 24, 2015 and this writ petition was filed on or about February 1, 2013 which is at least around two years before the panel expired.**

The petitioner contends that, in the qualifying round the petitioner to become within the consideration zone had to appear and appeared for the papers **Bengali, English and Child Development and Pedagogy**. If the petitioner qualified and came within the consideration zone then the further question of assessment of his Geography paper and the evaluation thereof would have arisen.

The petitioner contends that, there were serious discrepancies in the model answers provided by the School Service Commission in so far as those three subjects, namely, **Bengali, English and Child Development Pedagogy** were concerned.

Referring to a co-ordinate bench order dated **June 29, 2022** passed in a different writ petition being **W.P.A. 450 of 2013 In the matter: of Md. Kamruzzaman & Ors. Vs. The State of West Bengal & Ors.**, Mr. Sarthak Barman, learned counsel for the petitioner submits that, the co-ordinate bench had observed as under:

“The petitioners participated in the 12th R.L.S.T. in the year 2011. The answer keys of the OMR questions in Bengali, English, Child Development and Pedagogy subjects were ambiguous and wrong. Experts have been appointed by the previous order of this Court on 27th June, 2019, for the subject of English and Bengali.

In that view of the matter, let an expert on the subjects Child Development and Pedagogy currently employed with the Jadavpur University

to be nominated by the Head of the Department of Child Development and Pedagogy and/or the Head of the Department under which the subject is being taught, look into the answers to questions at page 17 of the writ petition.

The West Bengal Central School Service Commission shall obtain the opinion of the aforesaid experts on the lines of the order dated 27th June, 2019, passed in the instant matter.

The Commission may take suitable steps in terms of the opinion of the experts, upon intimation to the learned Advocate-on-Record of the petitioner. If the answer keys to the questions in the OMR Sheet in Child Development and Pedagogy is found incorrect or more than one answer is found correct, the Commission shall award marks to the candidates for the said questions. All the consequential benefits shall also follow to the candidates, who obtained such additional marks.

In addition to the allegations made in paragraph 10 of the writ petition, with respect to the Child Development and Pedagogy subject, the expert may also consider as to whether any questions outside the syllabus were mentioned as alleged in paragraph 14 of the writ petition. In the event it is found as such, marks for such questions shall automatically be awarded to the petitioners.

It is expected that the aforesaid exercise shall be completed within three weeks from date.

With the aforesaid observations, the instant writ petition shall stand disposed of.”

In the light of the above observation of the co-ordinate bench the petitioner prays for an identical direction upon the School Service Commission.

Dr. Sutanu Kumar Patra, learned counsel appearing for respondent Nos. 2, 3 and 4 submits that, pursuant to the said direction of the co-ordinate bench dated **June 29, 2022** read with another order dated **June 27, 2019** passed in the same writ petition necessary opinion from the expert was obtained and in the light of such opinion given by the expert the answer scripts of the relevant candidates were assessed/re-assessed. Referring to **paragraph 7** from the affidavit-in-opposition Dr. Patra submits that, the stand of the Commission in the instant writ petition is amply clear therein. The same is quoted hereunder:

“With regard to the statements made in paragraphs 8 and 9 of the said Application I do not admit my statement and/or averment contrary to and/or inconsistent with the records. In the said paragraphs the petitioner has made allegations with regard to Bengali language Section B Question Nos. 4, 7, 8 and 24; English language Section A Question No. 10, Section B Question No. 16 and Child Development and Pedagogy (CDP, in short) Question Nos. 19 and 21. In terms of the orders dated 27.6.2019 and 29.6.2022 passed in WPA 450 of 2013 the correctness of the model answers was checked by the Head of the Department of Bengali, English and CDP of Jadavpur University. In Bengali language, English language and in CDP; a few anomalies were pointed out by the respective Heads of Department of Bengali, English and CDP. Every time allegations are raised with regard to the correctness of the model answers, the model answers cannot be rechecked by engaging experts, especially since in the instant

case 3 experts have already rechecked the model answers and given their opinions. As the experts engaged for Bengali language has not found any anomaly the question of giving the petitioner any benefit does not arise. With regard to English language and CDP the petitioner could have been entitled atleast to the benefits arising from the anomalies pointed out by the two experts, provided she has raised allegations with regard to the same questions supported with what should be the correct answer as per recognized text books. I deny that there was any latches on the part of the respondent No. 2, 3 and 4 for which the petitioner was unable to qualify in the Teachers Eligibility Test.”

The learned counsel then submits that, in the light of the said expert’s opinion the answer scripts of the other candidates on whose writ petitions orders were passed on **June 27, 2019** and **June 29, 2022** were assessed/re-assessed and those who came within the consideration zone, further steps were taken to give them the consequential benefit strictly in accordance with law and following the procedure of the relevant selection process.

Considering the rival submissions of the parties and considering the materials on record at the outset this Court is of the considered view that, through the instant writ petition the petitioner had applied for his relief admittedly within the **life time of the panel** and before the panel stood expired. This petitioner stands on the same footing and is similarly placed with that of the petitioner ***In the matter of:***

Md. Kamruzzaman & ors. (Supra). Hence, this Court is of the view that, identical and same benefit shall have to be extended to this writ petitioner also.

In view of the foregoing discussions and reasons the respondent Commission following the direction of the co-ordinate bench dated **June 27, 2019 and June 29, 2022 made *In the matter of: Md. Kamruzzaman & ors. (Supra)*** shall carry out and complete the entire exercise **but in the light of the existing expert's opinion which was obtained by the Commission in terms of the said direction dated June 27, 2019 and June 29, 2022** and shall take all consequential steps strictly in accordance with law and following the procedure of the relevant selection process.

The entire exercise shall be carried out and completed by the Commission at the earliest as expeditiously as possible but positively within a reasonable period of time.

With the above observations and directions this writ petition being **W.P.A. 3690 of 2013** stands disposed of, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)