

Ct. 08
Item Nos.4-7
28.03.2024
(**Suvendu**)

**FMA 964 OF 2022
With
CAN 1 of 2022**

**Ram Krishna Das
Versus
State of West Bengal & Ors.**

With

**FMA 968 OF 2022
With
CAN 1 of 2022**

**Raja Khan
Versus
State of West Bengal & Ors.**

Ms. Pampa Dey Dhabal
Mr. Krishna Deo Das
Ms. Sangita Banerjee

..... for the appellants

Mr. Rajarshi Basu,
Mr. Shehnaz Tareq Mina

....for the State

Mr. Debashis Banerjee
Mr. Rakesh Jana

.....for the respondent no. 2

1. Both the appeals involving similar questions of fact of law have taken up together and disposed of by this common judgment.

2. The appellants are unsuccessful candidates. They have participated in the recruitment process for Group -D posts under the District Judgeship, Bankura pursuant to the Notification dated 6th July, 2011 published by the appropriate authority of the High Court at Calcutta. Both the appellants participated in the written test consisting of 100 marks and viva voce of 10 marks.
3. According to the appellants, although they have answered correctly with regard to question nos. 24, 28, 30 and 47 but they were awarded negative marks. An appropriate evaluation of those answers at the relevant point of time would put both the petitioners within the zone of consideration for appointment in the said posts of Group-D.
4. The learned District Judge in the affidavit has admitted that the said four answers have been correctly answered but due to bona fide mistake they were given negative marks. However, the issue that was raised in the said affidavit is with regard to manipulation of the answer scripts with

the involvement of one, Goutam Sinha and another namely Dilip Bhagat, who were the court employees and were given duty in respect of the said selection process. The learned District Judge received complaints about the involvement of said two persons with regard to the manipulation of the answer scripts of the writ petitioners/ appellants and forwarded a report to the learned Registrar General, High Court at Calcutta. Based on such report, it has also been stated in the said affidavit that both the employees named above were permanent staff of the District Judgeship of Bankura and Goutam Sinha was entrusted with the duty to supervise the work of sorting out the answer scripts with the help of other employees selected by him and had an access to the strong room and server room where the confidential data of the candidates were kept. Dilip Bhagat was also a senior employee under the said District Judgeship at Bankura. It has also been stated in the said affidavit that said Goutam Sinha in collusion with Dilip

Bhagat allowed those two writ petitioners/ appellants to have access to the strong room and server room and got their respective answer scripts manipulated at the time of sorting out the answer scripts with an intent to help them to get higher marks than the marks they were entitled to according to the answers they had written. The respondents have further contended that the answer scripts with the help of those two staff of the District Judgeship of Bankura were manipulated by giving tick marks in certain appropriate boxes in relation to question nos. 24, 28 and 30.

5. There is another significant aspect of this matter regarding the marks obtained by the appellants in the viva voice test. In the viva voice test both of them secured very low marks. It has been stated that performance of the petitioners/ appellants in the viva voice test was not matching with their respective performance in the written test. It has been further submitted that similar questions were put to them during viva vice which they wrote

correctly during the written examination, but they could not answer the same before the interview board.

6. It also appears that the learned District Judge had placed his reliance on the score sheets prepared based on performance of the respective candidates including the petitioners/ appellants and it has been contended that there is disparity of marks in the written test and viva voice.
7. On the basis of aforesaid materials, the learned Single Judge was of the opinion that the administration has made out a strong case suggesting manipulation and thereby declined to grant relief to the writ petitioners/ appellants.
8. During the pendency of the appeals, direction was given upon the CID to make a preliminary enquiry with regard to the allegations of manipulation.
9. The CID has filed two reports wherefrom it appears that they were unable to arrive at a conclusive finding with regard to manipulation due to non-availability of original records.

10. In the aforesaid background we need to consider as to whether the writ petitioners/ appellants, who were working as a temporary contractual staff at the relevant point of time, are entitled to any relief in the present appeals.
11. The recruitment process should be fair and transparent and has to be remembered that such posts are promotional posts.
12. Unfortunately at the time of investigation by the CID, Goutam Sinha and Dilip Bhagat were not available. Goutam Sinha had retired and died before the investigation was initiated by the CID in terms of the order of this Court. However, there are adequate materials disclosed by the learned District Judge and by the High Court administration wherefrom it would reveal that the writ petitioners secured very poor marks in the viva voice test which creates a grave suspicion and serious doubt in the mind of the selection committee with regard to the capability of the writ petitioners.

13. It also appears that the writ petitioners/ appellants were asked the same questions in the viva voce test that they answered during the written examination, but they could not answer those questions before the interview board.
14. The petitioners have not alleged any bias towards the selection committee or the learned District Judge, Bankura.
15. The report of the learned District Judge dated 11th September, 2012 clearly states that the petitioners with the help of some of the staff as named in the paragraph 12 had the access to the answer booklet by which the answer booklets were tweaked by the petitioners/appellants. This is amply corroborated by the score sheets prepared by the selection committee based on performance of the candidates in the written test and viva voce.
16. On a bare perusal of relevant parts of the score sheets annexed to the affidavit-in-opposition clearly reveal that Ram Krishna Das being one of the petitioners/appellants when obtained 52 marks out of 100 marks in the written

examination was awarded only 1.5 marks out of 10 in viva voce and that too on the basis of average marks awarded by the three members of the interview board. Similar is the case of Raja Khan.

17. Taking into consideration that the petitioners/ appellants obtained no marks in the viva voce in comparison to the marks obtained in the written test and considering the submission made on behalf of the learned District Judge, Bankura that the some questions that were correctly answered by the petitioners in the written test but when the same questions were put to them in viva voce they were unable to answer the same, this Court is of the view that there is some substance in the submissions made on behalf of the respondent authorities. On such consideration we are not inclined to interfere with the order passed by the learned Single Judge.
18. The appeal fails and dismissed with no order as to costs.

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

(Uday Kumar, J.)

(Soumen Sen, J.)