

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Partha Sarathi Sen, J.**

**MAT 1026 of 2024
WITH
IA NO: CAN 1 of 2024**

**Kamal Mandal & Ors.
VS.
The Airports Authority of India & Ors.**

For the Appellants : Mr. B. N. Ray,
Ms. Shetparna Ray, Advocates

For the : Mr. Ayan Poddar,
Respondents : Ms. Khusboo Ruia, Advocates

Heard & Judgement on : July 5, 2024

Partha Sarathi Sen, J.

1. We have heard the learned advocates for the appellants and the respondents at length.
2. Challenge in this appeal is the order dated May 2, 2024 as passed by the learned Single Bench in WPA 5280 of 2024 whereby and whereunder the said Court dismissed the writ petition holding that the said Bench found no *mala fide* on the part of the respondent authorities in cancellation of the recruitment process. The writ petitioners felt aggrieved and, thus, preferred the instant appeal.

3. In course of hearing, learned advocate for the writ petitioners/appellants at the very outset took us to the advertisement as published by the respondent authorities. It is submitted that pursuant to the said advertisement the present appellants being the writ petitioners applied for the post of Junior Assistant (Fire Service) NE-4 and, thereafter, they have been selected after qualifying all stages of the examination. It is the grievance of the writ petitioners/appellants that all on a sudden, the respondent authorities issued a cancellation notice with regard to the said selection process without assigning any reason whatsoever.

4. In course of hearing, learned advocate for the writ petitioners/appellants submits before this Court that in the relevant advertisement there were criteria with regard to physical efficiency test which, however, got corrected subsequently by issuing a corrigendum especially with regard to the 100 meter running. It is submitted that in the said cancellation notice though no reason has been assigned by the respondent authorities but while filing the affidavit-in-opposition, the respondent authorities all on a sudden raise some issues with regard to some alleged non-compliance of the relevant provisions of the memorandum governing the recruitment. It is submitted further that though in respect of the recruitment process in the other zones of the country the said recruitment process was permitted to continue on the selfsame parameter, however, in respect of the recruitment process under challenge, the respondent authorities in their affidavit-in-opposition has raised a flimsy ground with regard to the non-compliance of some of the provisions of the relevant guidelines/memorandum.

5. Learned Advocate appearing for the writ petitioners/appellants further submits that the report of the Committee as claimed to have been

constituted by the respondent authorities is also not speaking one and the finding of the said Committee with regard to the recommendation of the cancellation of the recruitment process is very much opaque and the same is explicit from the said report itself. It is submitted that the learned Single Bench has failed to visualize such infirmities and, thus, came to a finding which is contrary to the interest of the present writ petitioners/appellants.

6. Per contra, learned Advocate appearing for the respondent authorities in course of his submission draws our attention to the affidavit-in-opposition as filed before the learned Single Bench. Drawing attention to internal page No.8 of the said affidavit-in-opposition as filed before the learned Single Bench, it is submitted that pursuant to several complaints received by the department, a Committee was constituted by the respondent authorities who examined the entire recruitment process and thus, found many anomalies, both in the advertisement as well as in the process of recruitment and also in awarding marks to the candidates. Our attention is also drawn to the report which is available in the stay petition.

7. We have duly considered the submissions of the learned Advocates for the contending parties. We have minutely gone through the report of the Committee since the copy of the same has been annexed with the stay petition. We have made a comparative studies over the criterias regarding Physical Efficiency Test in the advertisement in question, the subsequent Corrigendum issued by the respondent authorities with regard to one of the tests of such Physical Efficiency Test by the respondent authorities as also the guidelines dated January 23, 2019 of the respondent authorities with regard to the allotment of marks for the Physical Endurance Test for the male candidates.

8. On comparative reading of the aforesaid three materials, it appears to us that admittedly there was some anomaly in the advertisement in question with regard to the parameters as prescribed in the relevant circular of January 23, 2019.

9. Admittedly, the respondent authorities issued a Corrigendum to cure such defect on a subsequent occasion but from the report of the Committee, it reveals to us that such Corrigendum was issued just two days before the Physical Endurance Test. We have also minutely perused the report of the Committee which has been constituted to make enquiry with regard to the alleged irregularities in allotting marks regarding Physical Endurance Test in the advertisement in question and we find that the Committee as formed came to a unanimous finding that there occurred not only the irregularity with regard to the publication of the advertisement in question and at the same time, the marks awarded in such Physical Endurance Test is not at par with the criteria as mentioned in the Memorandum dated January 23, 2019.

10. In our considered view, the learned Single Judge has come to a just finding that from the said report no mala fide action is found on the part of the respondent authorities in cancellation of the recruitment process. We are also in agreement with the finding of the learned Single Judge that in absence of any gross abuse of due process of law and/or in absence of any violation of principle of natural justice and further on failing to establish that the respondent authorities acted with total illegality, we are not supposed to interfere with the administrative decision of the respondent authorities as discussed (supra).

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11. In view of such, we, thus, find no merit in the instant appeal and accordingly, the instant appeal being MAT 1026 of 2024 along with IA No.: CAN 1 of 2024 is dismissed without any order as to costs.

12. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Debangsu Basak, J.)

13. I agree

(Partha Sarathi Sen, J.)

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