

D/L16
26.11.2024
Rohit
ct.no.26

MAT 1180 of 2024

**Soumini Saha @ Soumini Saha Maity & Anr
Versus
The State of West Bengal & Ors.**

Mr. Surajit Samanta
Ms. Sohini Samanta
...for the petitioners

Mr. Supriyo Chattopadhyay, Ld. AGP
Mr. Sirsanya Bandopadhyay,
...Jr. Standing Counsel
Mr. Shamim Ul Bari

....for the State
Mr. L.K. Gupta, Sr. Adv.
Mr. Subir Sanyal
Ms. Dwarika Nath Mukherjee
Mr. Ratul Biswas
Mr. Sourojit Mukherjee
Mr. T. Mitra
....for Applicant in CAN 2

Mr. Biswarup Bhattacharya
Mr. Golam Mohiuddin
....for Applicants in CAN 3,5,6,7,8

Mr. Bhaskar Prasad Vaisya
Mr. Pinaki Bhattacharya
....for the DPSC, North
24-Parganas (Via VC)

The appeal is directed against the order
dated June 13, 2024 passed in WPA 14056 of 2024.

By the impugned order, learned Single Judge
dismissed the writ petition of the appellants on the

ground to that the appellants cannot come within the scope and ambit of the earlier order dated April 25, 2024 passed in WPA 20966 of 2022 (***Kakali Mondal & Ors. Vs. The State of West Bengal & Ors.***) and other writ petitions.

Learned Advocate appearing for the appellants submits that the aforesaid writ petition is similarly situated and circumstanced as that of the writ petitioners of ***Kakali Mondal & Ors. (supra)*** who were afforded the benefit of appointment by the order dated April 25, 2024 passed therein. He submits that the appellants were called to the Interview. Therefore, according to him, he comes within the scope and ambit of paragraph 13 thereof.

Learned Advocate for the State submits that the Co-ordinate Bench called for records of the selection process. He submits that reports filed in Court will substantiate that persons who were below in rank than that of the appellant were granted appointments. Consequently, he submits that appellants were illegally discriminated against.

State, DPSC, Board and persons are seeking to be added as respondents in the pending appeal are represented.

Appellants before us as the writ petitioners claim right to appointment as Assistant Teachers by

virtue of the order dated April 25, 2024 passed in ***Kakali Mondal & Ors. (supra)***.

Appellants before us participated in a selection process for the post of Assistant Teacher in the year 2009 completed in the year 2021.

A number of writ petitions were pending in respect of such selection process before this Hon'ble Court.

A number of writ petitions were considered and by consent of the appearing parties an order dated April 25, 2024 was passed regulating the subject selection process.

The paragraph of the order dated April 25, 2024 which forms the basis of the claim of the appellant is paragraph 13 which is as follows:

“13. In the above circumstances, following the order dated 9th April, 2024 passed in WPA 3268 of 2015 (Sourav Naskar and Ors. Vs. State), for the reasons stated therein, in respect of the DPSC, Howrah, this Court by consent of all parties, is inclined to direct that all candidates who were called for interview in the aforesaid recruitment process of the year 2009 and have filed writ petitions until 24th April, 2024, shall be entitled to appointments against existing or future vacancies.”

Under paragraph 13 of the order dated April 25, 2024 twin conditions are required to be satisfied by participants in the selection process to the post of Assistant Teachers of the year 2009 to be entitled to appointment against existing or future vacancies, namely, (i) such participants were called for the interview in such recruitment process and (ii) filed writ petition until April 24, 2024.

Learned Advocate appearing for the appellants submits that the learned Single Judge fixed April 24, 2024 unilaterally as recorded in the order dated April 25, 2024. According to him since the appellants are similarly situated and circumstanced as that of the other candidates who participated in the selection process and were called for the interview, appellants should also be granted the appointment.

With respect, we are unable to accept the contentions of the appellants. Appellants never assailed the order dated April 25, 2024. The order dated April 25, 2024 prescribes the two conditions which must be fulfilled simultaneously namely i) being called to the Interview and (ii) being a party to a writ petition filed before April 24, 2024.

We are informed that, the order dated April 25, 2024 passed in ***Kakali Mondal & Ors. (supra)***,

is under challenge by the State and that such appeal is pending.

Learned Single Judge, found the appellants before us not only to fence sitters but also not qualifying the conditions prescribed in the order dated April 25, 2024 passed in ***Kakali Mondal & Ors. (supra)***.

In such circumstances, we find no merit in the present appeal. Accordingly, the appeal MAT 1180 of 2024 is dismissed without any order as to costs.

All connected applications stands disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)