

06.11.2024
Court No.18
Item 83 (ML)
CP

WPA No. 15523 of 2023

Anita Kisku
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. Sk. Imtiaj Uddin
Mr. Allauddin Ahmed
.... for the petitioner.

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
.....for the State.

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
.....for the respondent nos. 3 & 4.

Affidavit of service filed on behalf of the petitioner
is taken on record.

Petitioner, inter alia, has prayed for appointment
as Assistant Teacher under Work Education and
Physical Education Group in a Government aided
school in Upper Primary Section in consideration of her
participation in 1st State Level Selection Test 2016
(Upper Primary).

Mr. Ekramul Bari, learned advocate representing
the petitioner has drawn attention of this Court to one
representation dated January 3, 2023 addressed to the
Chairman, West Bengal Central School Service
Commission, wherein it was stated that petitioner
became successful in the aforesaid selection process

and her name was included in the panel and was called for verification on March 25, 2018 and was subsequently informed that her candidature was rejected.

The petitioner questions the decision of the West Bengal Central School Service Commission (for short 'Commission') rejecting candidature of the petitioner since in secondary level or in higher secondary level petitioner has not studied Bengali as 1st or 2nd or 3rd language. According to the petitioner such decision to reject the candidature of the petitioner is erroneous since she completed graduation with Bengali subject and did B.ED. course in Bengali version.

In addition thereto reliance is also placed on Rule 3, Rule 7(2) and Part-B of Schedule III of the West Bengal School Service Commission (Selection for Appointment to the Posts of Teachers for Upper Primary Level of Schools) Rules, 2016. It is contended in reference to aforesaid provisions of Rules of 2016 compliance of provisions as contemplated under Rule 5 is not mandatory.

Prayer made in the petition is opposed by the learned advocate representing the West Bengal Central School Service Commission (for short 'Commission') and it is specifically submitted that since petitioner did not have Bengali as 1st or 2nd or 3rd language in secondary level or in higher secondary level she is not

an eligible candidate for being appointed as Assistant Teacher in Work Education Physical Education Group in a Bengali medium school. According to the Commission, appointment of the petitioner in Bengali medium school would be contrary to the provisions as contained in Rule 5 of the said Rules of 2016.

It is further submitted that petitioner was not included in the panel rather she was called for verification and at the time of verification she was found to be ineligible. In terms of the recruitment rules after verification process is over panel is prepared containing names of eligible candidates. Another striking fact is brought to the notice of this Court on behalf of the Commission that the panel in question was published on December 12, 2018 and the same was expired after a period of one year on December 11, 2019. Therefore, after expiry of the panel petitioner has no right to be considered for being appointed as an Assistant Teacher.

Having considered the respective submissions made on behalf of the parties this Court finds it apt to quote Rule 5 of the West Bengal School Service Commission (Selection for Appointment to the Posts of Teachers for Upper Primary Level of Schools) Rules, 2016.

“5. Additional essential qualification of candidate.- A candidate willing to be selected as a Upper Primary Teacher having Bengali or English or Hindi or Nepali or Oriya or Santhali

or Telegu or Urdu as the medium of instruction, shall have Bengali or English or Hindi or Nepali or Oriya or Santhali or Telegu or Urdu, as the case may be, as first or second or third language at Secondary level of the Board or equivalent or at Higher Secondary level of the Council or equivalent.”

From the provisions as contained in Rule 5 it is clear that a candidate if wants to be appointed in a Bengali medium school needs to have studied Bengali as 1st or 2nd or 3rd language either at Secondary level or at Higher Secondary level. In the present case, nothing has been shown from where it can be inferred that the petitioner studied Bengali in Secondary or Higher Secondary level.

Strenuous argument has been made on behalf of the petitioner in reference to Rule 3, Rule 7(2) and provisions contained under Part-B of Schedule III of the aforesaid Rules of 2016 but on perusal of these provisions it does not appear that Rule 5 need not be followed. On consideration of the relevant provisions as contained in the aforesaid Rules of 2016 it further appears that along with other rules the provisions as contained in Rule 5 requires compliance. However, in the present case since the petitioner has not studied Bengali as 1st or 2nd or 3rd language in either Secondary level or in Higher Secondary level she has not been able to fulfil the conditions of Rule 5. Therefore, this Court finds the decision taken by the Commission needs no interference.

However, before parting with it needs to be recorded that the writ petition was filed on June 30, 2023 which is approximately three and a half years after expiry of the said panel. Panel was published on December 12, 2018 and expired on December 11, 2019. It is trite law that after expiry of the panel candidate loses opportunity to be considered for being appointed in connection with a particular selection process.

Hence, the writ petition stands dismissed. There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, may be furnished to the parties, at an early date upon usual undertakings.

(Saugata Bhattacharyya, J.)