

S/L 40
02.01.2024
Court No.25
SD

WPA 17109 of 2012

Sri Nabakumar Mukherjee
Vs.
State of West Bengal & Ors.

Mr. Achintya Kumar Banerjee

...for the Petitioner.

Mr. Saurav Chaudhuri
Ms. Oindrila Chatterjee

...for the State.

Documents, as produced by Mr. Chaudhuri, learned advocate for the State in terms of the order dated 20.12.2023 passed in this writ petition are kept with the record.

By this writ petition, the petitioner primarily prays for following reliefs:-

“a. Writ in the nature of Mandamus commanding the Respondents concerned to take steps for absorbing your petitioner as the best suitable candidate for the Post of Lower Division Clerk amongst the general caste Candidates of the said Examination and not to give effect any appointment without the present petitioner of the a post.”

Essential facts are required to be stated for the purpose of effective adjudication of this writ petition are that the Registrar General and Chairman of the Committee of Registrars, High Court, Calcutta issued an employment notification no. 6256-RG dated 6th July, 2011 (hereinafter referred to as the notification) inviting applications from intended and eligible candidates to fill up the existing and expected vacancies in different categories of posts in the

subordinate Courts of the State of West Bengal. In response to the notification, the petitioner offered his candidature for the post of Lower Division Clerk (Group-C) in the Judgeship of Bankura as a candidate under General Category.

As per the terms and conditions of the notification, the mode of examination for the post consisted of two parts viz. – Part-I and Part-II. The candidates offering their candidatures for such post were short-listed after holding Part-I examination. Then short-listed candidates were called for Part-II examination. The petitioner claims that he stood first in Part-II examination and accordingly, he was called for personality test. At the time of his personality test, the petitioner was asked to produce certificate to show that he had undergone training in operating computer but he could not produce the same and hence, he has not been given employment in the post illegally.

Mr. Banerjee, learned advocate for the petitioner submits that certificate showing knowledge in computer operation is not essential and he submits that the petitioner had earned the capacity to operate computer but on the date of interview, he could not produce the same. He contends that the petitioner had prayed for time before the District Recruitment Committee to produce such certificate but the Committee had enforced the terms and conditions of the notification in strict sense and had not given any opportunity chance to the petitioner, who stood first in Part-II examination, to produce such certificate.

He further submits that since as on date, the petitioner has crossed the upper age limit, a direction may be given upon the District Recruitment Committee concerned to consider the case of appointment of the petitioner by adopting human approach. Mr. Banerjee contends that there are vacancies in the post of Lower Division Clerk (in short, LDC) in that Judgeship and hence, an appropriate direction may be given to give employment to the petitioner in the post of LDC in that judgeship.

Mr. Chaudhuri, vehemently opposes such contention of Mr. Banerjee. He strenuously contends that as per the terms and conditions contained in the notification, the petitioner was bound to produce a certificate showing that he had undergone any training in operating computer from any recognized institution and such certificate should have contained information regarding his fingering speed in computer operation. The interview board on repeated occasions had asked the petitioner to produce the certificate but petitioner could not produce such certificate. Hence, the petitioner's candidature for the post has not been considered. He contends that the District Recruitment Committee had held and concluded the selection process as per the terms and conditions of the notification. He asserts that there is no illegality and/or irregularity in holding the selection process.

Admittedly, the terms and conditions contained in the employment notification are binding upon both the selection

committee as well as the candidate offering his candidature for any particular post.

The notification dated 6th July, 2011 prescribes essential qualifications for the post of LDC which are as follows:

“ For all posts in Group-B & C category, the Candidate must have passed Madhyamik or equivalent examination from any recognized Board and at least a Certificate in Computer Training from a recognized Institution and a satisfactory fingering speed in Computer Operation. Moreover, (i) for LDC, knowledge in type-writing in English is preferable..”

Hence, at the time of submission of the application for the post, the petitioner should have ‘*a Certificate in Computer Training from a recognized Institution and a satisfactory fingering speed in Computer Operation*’. Admittedly, the petitioner could not produce such certificate before the interview board. Mr. Banerjee contends that in 2008, the petitioner obtained such certificate but fact remains that the petitioner could not produce such certificate before the interview board. Hence, I do not find any material to hold that the selection committee had acted illegally in refusing to give appointment to the petitioner in the post. I am also of the view that in the case at hand, the compass of judicial review cannot be extended to such extent to direct the Chairman of the District Recruitment Committee to re-open the selection process which has

already completed and consider the case of appointment of the petitioner for the said post.

In view thereof, no interference is called for in this writ petition. Consequently, the writ petition being WPA 17109 of 2012 is dismissed. There shall be no order as to costs.

Parties shall be entitled to act on the basis of a server copy of this Judgement and Order placed on the official website of the Court.

(Partha Sarathi Chatterjee, J.)