

140
22.11.2024
Ct. No. 18
adeb

W.P.A. 22307 of 2023

**Moumita Das
Vs.
The State of West Bengal & Ors.**

Md. Manuwar Ali
Ms. Moumita Karmakar

...for the petitioner

Mr. Biswabrata Basu Mallick
Mr. Biman Halder
Mr. Ratul Biswas

...for the State

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey

...for the WBCSSC

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
Ms. Keya Panja

...for the Board

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

Petitioner participated in 12th Regional Level Selection Test 2011 for being appointed in the post of assistant teacher in Bio-Science (Pass). Petitioner's name did not feature in the merit list which prompted the petitioner to file a writ petition being WPA 14719 of 2013 (Moumita Das Vs. State of West Bengal & Ors.). Said writ petition was disposed of vide order dated 20th November, 2013 directing the concerned authority of West Bengal School Service Commission to reassess the answer script of TET 2011 since petitioner participated therein. It is

submitted on behalf of the petitioner that though order was passed on 20th November, 2013 but the same was not complied with for which petitioner had to initiate contempt proceedings. In the contempt proceedings on filing affidavit it was disclosed on behalf of the Commission that in three subjects i.e. English, Bengali and Child Development and Pedagogy on enhancing marks petitioner obtained 15.50, 17.00 and 21.50 respectively. Total marks of the petitioner in three subjects in TET 2011 was enhanced to 54.00. It is further contended that due to such enhancement of marks of the petitioner she came within the zone of consideration for being appointed as assistant teacher in Bio-Science (Pass) under General Category. Ultimately Chairman of West Bengal Regional School Service Commission, South-Eastern Region, Barasat issued recommendation memo on 18th January, 2023 appointing the petitioner as an assistant teacher in Dum Dum Subhasnagar Girls' High School (H.S.), District-North 24 Parganas and thereafter the Secretary, West Bengal Board of Secondary Education issued appointment letter on 30th March, 2023. Petitioner joined the institution on 31st March, 2023 and is working from the said date. After joining of the petitioner approval of appointment was accorded by the concerned District Inspector of Schools (SE) Barrackpore, North 24 Parganas on 4th May, 2023 stating that service of the

petitioner was approved with effect from 31st March, 2023.

It is submitted by the learned advocate representing the petitioner that due to inability on the part of the West Bengal School Service Commission to assess the answer scripts of TET 2011 properly there was inordinate delay in appointing the petitioner in the post of assistant teacher and petitioner has suffered monetary loss. Petitioner has prayed for grant of benefits in connection with his service as assistant teacher from the date when the candidate who was lastly recommended from the panel of the petitioner was appointed.

Dr. Sutanu Kumar Patra, learned advocate representing the West Bengal Central School Service Commission submits that in terms of the order of the coordinate Bench dated 20th November, 2013 marks in TET 2011 subjects of the petitioner were enhanced on reassessment as indicated in paragraph 8 of the affidavit filed on behalf of the Commission in connection with contempt proceedings being WPCRC 219 of 2016. It is further submitted that after enhancement of marks, the marks obtained by the petitioner in the subject was added. Marks on academic performance of the petitioner was also added and considering the aggregate of marks it was found that petitioner came within the zone of consideration for participating in the personality test. After personality test petitioner was found to be eligible

to be appointed in the post of assistant teacher based on the selection process namely 12th RLST 2011.

State respondents are also represented by learned Additional Government Pleader who submits that it is fact on reassessment of answer scripts of the petitioner under TET 2011 there was enhancement of marks which ultimately made the petitioner to be eligible for being appointed as an assistant teacher.

Having considered the respective submissions made on behalf of the parties, it appears that at the first instance had answer scripts of the petitioner been appropriately assessed there was no necessity so far petitioner is concerned to approach this Court with the writ petition being WPA 14719 of 2013 in pursuit of remedy.

It is also clear from the facts narrated by the parties before this Court today that the aggregate marks which were finally allotted to the petitioner after the order was passed by the coordinate Bench on 20th November, 2013 it was awarded at the first instance she would have been appointed much earlier. Due to wrong assessment of answer scripts by the examiners there was considerable delay in giving appointment to the petitioner and she was ultimately appointed on 31st March, 2023.

In view of aforesaid discussion, this Court finds substance in the case made out in this writ petition.

The concerned State respondents is directed to grant notional benefits to the petitioner from the date when the last recommended candidate was appointed within the lifetime of the panel prepared in connection with 12th RLST 2011.

The Chairman, West Bengal Central School Service Commission being respondent no.4 is directed to intimate Commissioner of School Education, West Bengal by fortnight from the date of communication of this order the date when last recommended candidate from the panel prepared relating to the category of the petitioner was appointed.

It is clarified herein that date of appointment of last recommended candidate to be reckoned within the lifetime of the panel.

On receipt of such information Commissioner of School Education, West Bengal being respondent no.2 shall take necessary steps for extending notional benefits in favour of the petitioner from the date which is to be intimated by the respondent no.4 and it is also made clear excepting monetary benefits petitioner is entitled to receive all other service benefits from previous date including calculation of pensionary benefits in future.

Respondent no.2 is directed to complete the aforesaid exercise relating to granting of notional benefits within a period of four weeks from the date of receiving

information from the Chairman, West Bengal Central School Service Commission.

With the aforesaid direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)