

26.04.2024
Court No.13
Item No. 9,13,34
pk

WPA 25712 of 2022
CAN 1 of 2022
Md. Asiruddin and others
Vs.
State of West Bengal and others
With
WPA 20482 of 2023
Selim Khan and others
Vs.
State of West Bengal and others
With
WPA 11633 of 2024
Rimpa Saha and others
Vs.
State of West Bengal and others
With
WPA 11805 of 2024
Jarina Khatun and another
Vs.
State of West Bengal and others
With
WPA 5558 of 2022
Md. Mobasserul Hoque
Vs.
State of West Bengal and others
With
WPA 26307 of 2022
Maskura Khatun
Vs.
State of West Bengal and others
With
WPA 15168 of 2021
Samiul Haque and others
Vs.
State of West Bengal and others
With
WPA 4932 of 2021
Pranab Kumar Sharma and others
Vs.
State of West Bengal and others
With
WPA 11903 of 2024
With
WPA 5161 of 2021
Priyanka Choudhury and others
Vs.
State of West Bengal and others.

Mr. Sudipta Das,
Mr. Ali Ahsan Alamgir,
Ms. Rabia Khatoon,

Ms. Soma Mal,
Ms. June Modak

... for the petitioners in
Item Nos. 9, 13 and 34.

Mr. Sudipta Dasgupta,
Mr. Ali Ahsan Alamgir,
Ms. Rabia Khatoon,
Ms. Soma Mal,
Ms. June Modak

... for the petitioners in WPA 11805 of
2024.

Mr. Biswaroop Bhattacharya,
Mr. Golam Mohiruddin,
Mr. Anindya Bose,
Ms. Puja Mondal

... for the petitioners in WPA 11903 of
2024.

Ms. Nandini Mitra

... for the petitioners in WPA 15168 of
2021 and WPA 4932 of 2021.

Mr. Biswabrata Basu Mallick,
Ms. Parna Roy Chowdhury

... for the State in WPA 20482 of 2023.

Mr. Biswabrata Basu Mallick,
Mr. Syed N. Hossain

... for the State in WPA 11633 of 2024

Mr. S. Banerjee,
Mr. Ritesh Kumar Ganguly

... for the State in WPA 25712 of 2022

Mr. Samim ul Bari

...for the DPSC, Malda in WPA 11903 of 2024

Mr. K. M. Hossain,
Ms. Keya Sutradhar

...for the petitioners in WPA 5558 of 2022

Mr. Basubrata Basu Mallick,
Mr. Sayan Ganguly

... for the State in WPA 5558 of 2022

Mr. Samim ul Bari

...for the DPSC, Malda in WPA 5558 of 2022

Mr. Ali Ahsan Alamgir

... for the petitioner in WPA 26307 of 2022

Mr. Samim ul Bari

...for the DPSC, Malda in WPA 26307 of 2022

1. The following writ petitions, WPA 11805 of 2024, WPA 5558 of 2022, WPA 26307 of 2022, WPA 15168 of 2021, WPA 4932 of 2021, WPA 11903 of 2024, WPA 5161 of 2021 pertaining to the same subject matter i.e. recruitment process of the year 2009 completed in the year 2021 pertaining to the Malda DPSC shall be treated as on day's list and be covered by this order.
2. In WPA 11903 of 2024 all references to the district North 24 Parganas shall be treated as Malda DPSC. In the writ petition particularly paragraph nos. 19 to 28 shall stand expunged. The learned advocate on record for the petitioner is permitted to effect the corrections in the writ petition.
3. Evidence of payment of court fees filed in the Court are kept with the records.
4. The allegations of the petitioners are in respect of improprieties in the recruitment process 2009 in the DPSC, Malda, completed in the year 2021. The Commissioner of School Education (CSE) has refuted the allegations. The same is echoed by the Chairman, Malda.
5. What follows from the argument of all counsels is that only candidates with a fixed percentage of marks in the academic qualifications in the respective categories and subjects were allowed to sit in the written examination. Such written

examination was followed by Viva Voce and Aptitude test.

6. What also transpires from the submissions of the parties is that pursuant to an order dated 8th January, 2021 passed in WPA 15128 of 2017, several/supernumerary additional posts have been created.
7. This Court at this stage does not wish to enter into the nomenclature of the posts created. Suffice it to say that as many as 2605 posts were created by notification dated 17th September, 2021 issued by the CSE.
8. The recruitment process is of the year 2009 which was completed by issuing appointments in the year 2021. After taking into consideration the vacancies already existing, and the new posts of 2605 created, it transpires to this Court from the submissions of the Commissioner of School Education, the DPSC, Malda and the petitioners that there are about 300 posts still vacant.
9. In a decision of a Co-ordinate bench in respect of the Howrah DPSC by order dated 9th April, 2024, a consensus was achieved by consent of all parties, i.e., the writ petitioners, the DPSC concerned, the Commissioner of School Education, to accommodate the petitioners in all writ applications filed upto 31st

March, 2024, to be appointed against available vacancies.

10. The said consensus was based on an order of a Coordinate bench dated 9th June, 2023 passed in WPA 1305 of 2021 (Barnali Sengupta & Ors. Vs. State of West Bengal & Ors.) heard along with WPA 28899 of 2022, WPA 27960 of 2022 and WPA 1025 of 2023.
11. It cannot be said that there were no irregularities or improprieties in the recruitment process to the post of Assistant Teachers of the year 2009, completed in the year 2021 in the DPSC Malda. This Court does not wish to make any conclusive pronouncement thereon.
12. In the event the irregularities are accepted the entire process of recruitment is liable to be interfered with. This would cause prejudice to candidates appointed and working for some years. There is no way of segregating the lawful and unlawful appointments.
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 25th April 2024,

shall be entitled to appointments against existing or future vacancies.

14. All applications for addition of parties affirmed until 25th April, 2024 in the subject writ petitions are hereby allowed and disposed of.
15. The DPSC North Malda and the State shall ensure that the marks of all writ petitioners as above in the written examination, aptitude test and interview are published on the website in descending order.
16. After verification of records, writ petitioners and added parties, shall be accommodated and given letters of appointment. If the vacancies are exhausted, the DPSC, Malda shall publish a list of wait listed candidates. Such panel of wait listed candidates shall be kept alive until vacancies continue to arise and all the petitioners are appointed.
17. All of such appointment shall be prospective and shall be issued and effective from today. The petitioners shall not be entitled to claim any arrears or benefits before the date of the letter of appointment notional or monetary.
18. The writ petitioners and added petitioners shall produce copies of the writ petitioners along with evidence of date of filing of writ petitions, all documents in support of their participation in the recruitment process, including admit cards for the

written test, call letters for interview and aptitude test and their qualifications for verification by the DPSC within 15 days from date.

19. It is only those petitioners who are able to produce all original documents as above and/or authenticated copies thereof to the satisfaction of the DPSC, Malda that shall be eligible for appointments as directed hereinabove. The names and particulars of each of the eligible and appointed and waitlisted writ petitioners shall be published by the DPSC, Malda on its website.
20. The panel list and/or the letters of appointment including the waiting list sent by the Chairman, DPSC, Malda shall be approved by the Commissioner of School Education, Government of West Bengal.
21. The exercise of issuance of appointment letters shall be completed, preferably within a period of 2 months from the submission of the list.
22. With the aforesaid directions passed by consent of all parties, all the writ petitions along with connected applications shall stand disposed of.
23. There shall be no order as to costs.
24. The persons already appointed or not willing to obtain appointments in the writ petitions above, shall not be issued such appointments.

25. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)