

12
04.12.2024
Ct. No. 4
SB

WP.ST 167 of 2023
CAN 1 of 2024

Sudipta Sannigrahi
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Kiron Sk.
Mr. Aritra Ghosh ... for the petitioner

Mr. Tapan Mukherjee
Mr. Somnath Naskar
Mr. Alok Banerjee .. for the State

1. The short issue arising for consideration is whether a candidate who has participated in the process of recruitment for public employment is required to maintain truthfulness while participating in the selection process.
2. The factual background in the present case is that, an advertisement was published bearing number 4 of 2020 by the Public Service Commission ("Commission" for short) inviting applications from candidates desirous of recruitment to the post of Assistant Director of Horticulture under the Department of Food Processing Industries and Horticulture, Government of West Bengal having 50 number of vacancies. The petitioner participated in the process of recruitment. The commission thereafter published a list of candidates recommended by the commission based on their performance in the process of scrutiny including the written test. The recommendation of the commission was sent to the employer namely, the Department of Food Processing Industries and Horticulture. As per the recommendation dated 20.7.2021, the employer was required to undertake a

process of verification so as to ascertain that the disclosures made in the application were correct and founded on documents supporting the declarations made at the time of applying for the recruitment in question. The petitioner was thus, required to fill up a Police Verification Roll (PVR), the same contains various columns for disclosing various details of the individual candidate including the date of birth. Column VIII in the said P.V.R. is the relevant column which required the candidates to disclose the date of birth which was to be supported by birth registration certificate / admit card issued by the West Bengal Board of Secondary Education or any other recognized Board. In this P.V.R. the petitioner claims her date of birth to be 18.11.1992. While the police undertook the process of verifying the disclosures in the P.V.R. another date of birth of petitioner surfaced based on the admit card issued by the West Bengal Board of Secondary Education at the time the petitioner sat for the 10th / Madhyamik Pariksha. In the admit card issued for the said examination her date of birth has been recorded as 01.4.1986. The petitioner, was thus asked to appear before the Superintendent of Police, DIB, Bankura by communication dated 20.1.2023. The petitioner has not appeared before the said authority. These are undisputed facts.

3. The learned counsel for the petitioner in the above backgrounds submits that apart from the admit card issued by the West Bengal Board of Secondary Education, the petitioner also possessed a birth certificate. The birth certificate issued by the competent authority being the Sub-

Registrar of Birth and Death record the petitioner's date of birth as 18.11.1992. It is this document which the petitioner proposed to rely upon and therefore, the petitioner had disclosed her date of birth accordingly as 18.11.1992. It is thus, submitted that there was no misrepresentation in the application filed by the petitioner for P.V.R. The other submission on behalf of the petitioner is that if either of the two dates of birth are taken into consideration she would still be qualifying the requisite age for the process of recruitment.

4. The learned counsel for the State on the other hand submits that the discrepancy in date of birth having occurred during the course of P.V.R. the petitioner becomes disentitled to any claim for public of employment. The candidature of the petitioner suffers from the vice of misrepresentation as well as suppression the date of birth discovered during the P.V.R. is based on the petitioner's date of birth recorded in the admit card as 01.4.1986. The said document is a document which is of a date much prior to the date on which the birth certificate has been issued. The admit card is issued at the time of her participation in the 10th examination in the year 2005-2006. The birth certificate on the other hand appears to have been issued on 03.9.2015. The submission is that in view of such conduct of the petitioner and the discrepancy in the date of birth not being denied or disputed there is no scope for the petitioner to contend that her claim for the employment can be entertained.
5. We have heard the rival submissions and perused the records. There is no dispute that the date of birth entered by

the petitioner in the process of recruitment is 18.11.1992. The date, according to the petitioner is based on the birth certificate dated 18.11.1992 issued by the competent authority. The petitioner, however, has not disputed or denied the fact that there is an Admit Card in relation to her Class 10th examination, which she took in the year 2005-2006 wherein her date of birth has been mentioned as 03.09.2015. The petitioner did not disclose this date of birth as recorded in an earlier document (Admit Card). The said document is a document contemporaneous to the petitioner's appearance in the class 10th examination in the year 2005-2006. Suppressing such a contemporaneous document, the petitioner has chosen to rely upon a birth certificate issued on 03.09.2015 certifying her date of birth to be 18.11.1992. When the two dates based on these two documents are not denied or disputed, the submission of the petitioner's Counsel that since both the documents are issued by a competent authority and their genuineness are not in doubt, the petitioner would have an option, as exercised in the present case to rely upon the date of birth mentioned in the birth certificate, is clearly unacceptable. One cannot have two dates of birth. It is not upon to a person to get documents in respect of two dates of birth and rely upon one or the other as per convenience. A person is required to have a fixed date of birth and to ascertain this fact the PVR was required to be filled up by the applicants.

6. Another aspect of the matter is that the petitioner has suppressed the date of birth mentioned in an earlier/ contemporaneous document (Admit Card), and thus the

more reliable document. The document being contemporaneous to the petitioner's appearance in the class 10th examination, in a routine way, without any issue of employment occurring, appears to the Court to be a more reliable document to ascertain the date of birth. The date of birth mentioned in the Admit Card in our opinion, *prima facie* is the more credible date of birth, when compared to the date of birth as contained in the Birth Certificate dated 03.09.2015 obtained by the petitioner decades after she was allegedly born as per the birth certificate i.e. on 18.11.1992. Such conduct of the petitioner leads us to an irresistible conclusion that the petitioner's candidature in the recruitment process lacks *bonafide*. The application of the petitioner in the process of recruitment was thus suffering with the vice of *suppressio veri and suggestio falsi* and, therefore, we are of the opinion that such a candidate does not deserve to be considered for grant of public employment. The Reliance placed by the learned State Counsel on decision of the Apex Court in the case of ***A.P. Public Service Commission Vs. Koneti Venkateswarulu and Others*** reported in ***(2005) 7 SCC 177***, wherein the Apex Court has held that a person who indulges in *suppressio veri and suggestio falsi* does not deserve any public employment, in our opinion is applicable to the facts and circumstances of this case.

7. We find no infirmity in the order of the Tribunal refusing to grant any relief to the petitioner for her appointment to the post of Assistant Director by virtue of her perspective in the process of recruitment. This order may not be deemed to be

an expression of opinion by this Court to the correctness or otherwise of the date of birth either in the Admit Card, or in the birth certificate.

8. The writ petition is dismissed.

(Madhuresh Prasad , J.)

(Supratim Bhattacharya, J.)