

**2908
2024**

THURSDAY

Court : 08
Item : DL-13
Matter : FMA
Status : DISMISSED
Bench ID : 266048
Transcriber : NANDY

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

**FMA 12 of 2023
with
CAN 1 of 2023**

Raj Kumar Bhattacharya
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari, Advocate

Mr. Sk. Imtiazuddin, Advocate

.....for the Appellant

Mr. Somnath Ganguli, Advocate

Ms. Priyanka Singh, Advocate

.....for the State

1. It is not in dispute that the petitioner offered his candidature pursuant to the advertisement made by the College for recruitment to the post of a 'Clerk' and after undergoing the process of selection, was found successful therein and the appointment was made by the College. It appears that the College conducted the examination and immediately issued a letter of appointment dated 06.04.2015 and on the very next date, the petitioner joined the said post.
2. Since the petitioner was not paid salary, approach was made to the authorities where the approval to an appointment was rejected. It was indicated that the College have not followed the mandates given in the statutory Rules and have acted whimsically and, therefore, the authority cannot approve the appointment of the petitioner which is done in violation of the statutory Rules.

3. The argument is advanced before us that the moment the petitioner joins the service and the fraud appears to have been committed by the College it cannot act to the detrimental of the petitioner. It is sought to be contended that the minor infraction in following the Rule cannot declare the entire steps having taken by the College under the said provision, to be illegal.
4. By virtue of a Memo dated 12.11.2014 which has a statutory flavor, the non-teaching post sanctioned to the College is required to be filled up upon strict observance of the Recruitment Rules stipulated in the Government Order Nos. 585-Edn(CS) dated 09.09.2008 and 915-Edn(CS) dated 19.11.2007 keeping in mind the reservation policy applicable in this regard. The Memo No. 915-Edn(CS) dated 09.09.2008 further postulates that apart from the wide publication inviting applications from the eligible candidates, the College must approach the Employment Exchange to sponsor the candidates who are otherwise eligible for the said post.
5. It appears that the College did not follow the aforesaid mandate in approaching the Employment Exchange and proceeded to complete the recruitment process in departure from the said provision. The Trial Court thus found that the action of the College cannot be said to be in consonance with the letter and, therefore, it does not create any

equity into the writ-petitioner to seek approval for such appointment.

6. In view of the findings made hereinabove, we do not find any infirmity and/or illegality in the order impugned.
7. The appeal being **FMA 12 of 2023** and the connected application being **CAN 1 of 2023** are **dismissed**. No order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J)