

20.02.2024
rpan/16

MAT 2511 of 2023
+
IA No.: CAN No. 1 of 2024
Anasuya Adhikari
– *Versus* –
The State of West Bengal & Others

Mr. Sukanta Chakrabarty
... for the Appellant.

Mr. Bhaskar Prasad Vaisya,
Mr. Arindam Chattopadhyay
... for the State.

Mr. Pulak Ranjan Mondal,
Ms. Bandana Mondal,
Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya,
Ms. Mithu Singha Mahapatra
... for the WBCSC.

Affidavit-of-service filed by the appellant be kept on record.

The present appeal has been preferred challenging an order dated 8th December, 2023 passed in a writ petition, being WPA 17634 of 2023.

The appellant participated in 24th State Eligibility Test Examination (in short, SET) conducted by the West Bengal College Service Commission (in short, the Commission). By a notification dated 20th January, 2023 the candidates participating in the SET were asked to send their feedback as regards the question papers and the answer keys. Responding thereto, the appellant submitted her feedback. The expert found the questions to be accurate. Challenging the veracity of such expert opinion, the appellant prayed for re-examination of her feedback by appointing another expert. Such prayer was accepted and the learned single Judge

directed the university to appoint an expert to examine the feedback given by the appellant subject to payment of `10,000/-. Pursuant to such direction, an expert was appointed and a report was filed to which the appellant used an exception. Upon considering the records including the exception, the learned single Judge dismissed the writ petition. Aggrieved thereby, the appellant preferred the present appeal.

Drawing our attention to the expert opinion, Mr. Chakrabarty, learned advocate appearing for the appellant submits that the answer given by the appellant to question no.8 being Option – D was accepted by the expert though the Commission’s feedback was Option – B. As regards question no.37, the expert’s opinion was “*Meaningless Question*” and as such, the answer given by the appellant ought to have been accepted as the correct answer. As regards question no.43, the expert’s opinion was “*Grammatical error in question*” and as such, the option exercised by the appellant ought not to have been construed to be an erroneous answer. As regards question no.50, the expert’s opinion was “*Option (iii) individually is correct*” and as such, the answer given by the appellant ought not to have been treated as incorrect.

He contends that the appellant scored 178 marks and the cut off mark was 182. In the event she is given full marks in the questions, being question nos. 8, 37, 43 and 50, she will qualify.

Mr. Mondal, learned advocate appearing for the said Commission disputes the contention of the appellant and argues that the Court cannot sit in appeal over an expert

opinion and that as such no interference was called for in the writ petition.

Mr. Vaisya, learned advocate enters appearance on behalf of the State.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The learned single Judge dismissed the writ petition considering the fact that even if the appellant had been given two marks in question no.8, she would not have been eligible since the cut off mark was 182. In view of the expert report, the answers given by the appellant in question nos. 37, 43 and 50 cannot fetch any marks moreso when the SET is over and all the candidates have been given marks on the basis of the answer keys prepared by the Commission.

In the said conspectus and moreso when the Court should be slow to interfere with an expert opinion, the learned single Judge, in our opinion, rightly refused to exercise any discretion in favour of the appellant.

In view thereof, no interference is called for in the present appeal.

The appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)