

06.05.2025
TUESDAY

Court : 4
Item : 4
(AD)

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

W.P.S.T. 73 of 2025

**Guruprosad Banerjee & Anr.
Versus
The State of West Bengal & Ors.**

Mr. Murari Mohan Das,
Sk. Musior Rahman

.....for the petitioners

Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. Sangeeta Roy

.....for the Respondents

1. The present petitioners were the applicants before the Tribunal. They have been pursuing their candidature in the selection process for recruitment to the post of Lower Division Clerk in office of the District Registrar, Burdwan held way back in the year 2006.
2. It is submitted by the learned Counsel for the petitioner that the present case is preceded by several rounds of litigation. We, however, do not propose to go into the history in view of the fact that it is not in dispute that in terms of direction passed by the Tribunal in the earlier O.A. proceedings the petitioner's marks were reviewed and some additional marks were awarded. A re-assessment was done. Based on such re-assessment, 3 marks were added to the existing marks of the first petitioner and 10 marks were

awarded to the existing marks of the petitioner No. 2. As per reasoned order dated 14.09.2022 passed by the Inspector General of Registration and Commissioner of Stamp Revenue, the petitioner NO. 1 after addition of 3 marks was placed in the merit list at serial No. 13. Petitioner No. 2 after addition of marks was placed in the merit list at serial No. 11.

3. The last successful candidate was at serial No. 9 of the merit list. He had scored 74.5923 marks. The petitioner No. 1 and petitioner No. 2 after addition of marks pursuant to the review/ re-assessment exercise done by the authorities had seemed 70.3692 and 73.8615 marks respectively. The petitioners were thus having marks below the last selected candidate at serial No. 9. The Tribunal has confirmed this position from the merit list which was available on record. Such being the position there was no scope for the petitioners to raise any grievance.
4. On behalf of the petitioners, it was submitted that the candidates whose name was appearing at the serial No. 12, 14 and 15 are “working”. The Tribunal found such submission advanced on behalf of the petitioners to be unsubstantiated by the records. In fact, such allegation was made by the petitioner in the

application filed before the Tribunal. The Tribunal has thus found the submission of the learned Counsel for the applicant to be devoid of any substance and found no merit in the O.A.

5. The learned Counsel for the petitioner in these proceedings also does not raise any dispute as regards the fact that the last successful candidate was at serial No. 9 of the merit lists, and that the petitioners were at serial No. 11 and 13 of the merit lists. There is also no denial of the fact that the last person appointed from the merit list was having 74.5923 marks whereas the petitioners No. 1 and 2 had secured 70.3692 and 73.8615 marks respectively, which is lower than the last selected candidate.
6. It is submitted by the learned Counsel for the petitioners that petitioners have been discriminated against and that persons who are below them in the merit list at serial No. 12, 14 and 15 are working.
7. In order to ascertain such submission of the learned Counsel for the petitioner we called upon the learned Counsel for the petitioner to show whether such case was made out in the O.A. or reply filed before the Tribunal. No such statement has been pointed out by the learned Counsel for the petitioner, to the effect that the

persons placed in the merit list at serial No. 12, 14 and 15 have been appointed, let alone working.

8. At this juncture we consider it appropriate to refer to Rule 8 of the Central Administrative Tribunal (Procedure) Rules 1987 (hereinafter referred to as “1987 Rules”). The Rule has been framed by the Central Government in exercise of powers under Section 35 and Section 36 of the Administrative Tribunals Act, 1985 (hereinafter referred to as “Act”). As per Rule 8 an application filed is required to set forth concisely under distinct heads the grounds for such application. Such requirement under the statutory rule has a very significant objective. The filing of the application is an opportunity for the applicant to state his grievance based on the grounds for such grievance. It is only when such details are disclosed in the application, that the respondent in the Tribunal would be in a position to consider whether the grounds set forth in the application are correct, or not. It is only in respect of the grounds stated in the application, or subsequently brought on record in accordance with law that the respondent can be called upon to respond. Based on response of the parties the Tribunal proceeds to consider

and adjudicate the issue/s arising. When no ground has been stated in the application by alleging that respondents 12, 14 and 15 were appointed, or were working, no such issue arose for consideration before the Tribunal. In absence of any such issue being raised by the applicant in the application filed before the Tribunal, it was/is not open to the learned Counsel representing the applicant to raise such a ground, factual foundation for which was not laid in the application filed by the applicant.

9. It is only if such facts were stated in the application that the respondents would have an opportunity to consider and meet such allegations in the reply filed under Rule 12 of the 1987 Rules. According to Rule 12 reply is to be filed by the respondent intending to contest the application along with documents relied upon by the respondent. Rule 12(2) of the 1987 Rule stipulates that in the reply the respondent shall specifically admit, deny or explain the facts stated by the applicant in his application. It is also open to the respondent to state additional facts considered necessary for a just decision of the case. Harmonious reading of Rule 8 and Rule 12 of the 1987 Rules reveals that the procedure emerging therefrom enshrines compliance with

the principles of natural justice as contemplated under Section 22 of the Act. Once the stand of both parties in respect of the grounds urged by the applicant is before the Tribunal, then only the Tribunal would be called to consider and decide such issue. Since no such ground regarding discrimination founded on any allegation of respondents No. 12, 14 and 15 being working was raised by the applicant, the Tribunal has rightly refused to look into such allegations based only on an oral submission of the learned Counsel representing the applicant.

10. We find no infirmity in the decision of the Tribunal requiring any interference.

11. The writ petition is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J)