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04.11.2025
Ct. No. 11
KCP

FMA 703 of 2025
with
IA No. CAN 1 of 2025
(Mukul Chandra Roy Vs. The State of
West Bengal & Ors.)

Mr. Sudipta Dasgupta
Mr. Saikat Sutradhar
.... For the appellant

Mr. Supriyo Chattopadhyay, Ld. AGP
Mr. Manoj Kr. Mondal
..... For the State respondents

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
..... For the WBCSSC

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
..... For the W.B.B.S.E.

The present appeal has been preferred challenging an order dated 03.03.2025 passed by the learned single Judge in the writ petition being WPA 226 of 2025.

Record reveals that the writ petitioner/appellant herein along with others initially preferred a writ petition being WPA 450 of 2013 (*Md. Kamruzzaman & Ors. -vs- The State of West Bengal & Ors.*) in which an order was passed on 29.06.2023 for re-assessment of marks in written test in connection with the 12th RLST, 2011 conducted by the West Bengal Central School Service Commission (hereinafter referred to as the Commission). Pursuant thereto, the appellant's marks were enhanced and he came within the zone of consideration. Accordingly, the Commission recommended the appellant

to the post of an assistant teacher in Mathematics (Hons./PG) at Nagar Dakaliganj School (HS) *vide* memo dated 11.08.2023. The appellant, however, did not join the said post to which he was recommended. Alleging violation of the order in *Md. Kamruzzaman (Supra)* a contempt application was preferred on a plea that in terms of the order passed by the writ Court appropriate consequential benefits had not been granted. The said contempt application was also disposed of by an order dated 08.05.2023 with an observation that any individual cause of action as regards non-qualification of the personality test, alleged non receipt/service of notice of personality test and disclosure of marks may be agitated in a separate independent fresh writ petition. In view of such direction, the appellant preferred an independent writ petition being WPA 226 of 2025 which was dismissed by the order impugned in the present appeal.

Mr. Dasgupta, learned advocate appearing for the appellant strenuously argues that after the appellant came within the zone of consideration for recommendation to a suitable vacancy, the Commission without conducting any counselling issued recommendation in favour of the appellant *vide* memo dated 11.08. 2023 to a school which is far away from his residence and it was an impossibility for him to join the said school. Had counselling been conducted, the appellant would have had the opportunity to choose a

vacancy on the rudiments of his merit position which might have been closer to his residence.

Dr. Patra, learned advocate appearing for the Commission, however, disputes such contention of Mr. Dasgupta and submits that the order in *Md. Kamruzzaman (supra)* was issued subsequent to expiry of the panel pertaining to the 12th RLST, 2011. In view thereof, no vacancies were in the hand of the Commission and pursuant to the order passed, the Commission approached the State Government and the State Government forwarded 63 vacancies for accommodating 63 writ petitioners. In the said conspectus, there was no possibility to conduct any fresh counselling as all the vacancies were under different categories. It is not a case that the appellant's merit position had been compromised and as such, the learned single Judge rightly did not exercise any discretion in favour of the appellant.

Mr. Chattopadhyay, learned senior Government advocate appearing for the State respondents submits that no specific allegation had been levelled against the State respondents.

Records reveal that the appeal was initially heard by a co-ordinate Bench of this Court on 15.07.2025 when Dr. Patra sought for an adjournment to obtain necessary instructions. Subsequently, it was pointed out that for ascertainment of an appropriate vacancy State would be the competent authority. In course of hearing, Mr.

Dasgupta placed before this Court a list of four schools in which vacancies were existing and in which the appellant may be recommended and appointed. Considering such submission, this Court requested Mr. Chattopadhyay to ascertain whether there are vacancies as pointed out by Mr. Dasgupta. Pursuant to such direction, Mr. Chattopadhyay placed before this Court a memo dated 19.09.2025 issued by the District Inspector of Schools stating that no vacancy exists in three schools in the list furnished and in only one school though a vacancy is available in Higher Secondary section but science stream of the said institution is not functioning. Let a copy of the said memo, as placed, be kept on record.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, upon re-assessment of the mark sheets, the appellant's marks were enhanced and accordingly he was recommended to a particular school, as would be explicit from the notification dated 11.08.2023. However, the appellant did not join the recommended post. Having not joined the said post, the appellant took a plea that no counselling was conducted prior to such recommendation. Such issue as regards counselling involves disputed questions of fact and the Court in exercise its power of judicial review cannot conduct any roving enquiry.

The learned single Judge upon hearing the parties arrived at specific findings and we do not find any infirmity in the order impugned and as such no interference is called for.

Accordingly, 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 given to the learned advocates for the parties.

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