

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 17054 of 2024

Somnath Banerjee

Versus

The State of West Bengal & Ors.

With

WPA 17055 of 2024

Priti Banerjee

Versus

State of West Bengal & Ors.

For the petitioners : Mr. Barun Kumar Samanta.

For the State : Mr. Asish Kumar Guha,
In WPA 17054 of 2024 Mr. Benazir Ahmed.

For the State : Jayanta Samanta,
In WPA 17055 of 2024 Mr. Kaustav Chatterjee.

Lastly heard on : **14.01.2025**

Judgment on : **14.01.2025**

Rai Chattopadhyay, J:

1. The two writ petitions being WPA No. 17054 of 2024 and WPA No. 17055 of 2024 are being taken up together for consideration and disposal, by dint of this common judgment.

2. Impugned is the resolution of the Board, Regional Transport Authority, Kolkata Region, dated May 3, 2024.

3. The Board was considering for grant of permit as to the vacancies declared in the route of 45A and 45B. The petitioners were amongst the intending grantees, who filed their applications on March 24, 2023. The Board decided, by dint of the resolution as above, that on the basis of 'financial stability'(average of last three years income tax return and current bank balance) and experience in transport and other business, as reflected in the broadsheet, the offer letters be granted to the other incumbents excepting the present two petitioners.

4. The persons who have been granted offer letters are added as party respondents in this case. However, they do not represent themselves, in spite of service of notice.

5. Mr. Barun Kumar Samanta, learned counsel appearing for the petitioners has ventilated the grievance of the petitioners that the broadsheet prepared to consider grant of permit is based on erroneous and mindless considerations, in so far as the said respondent has failed to take into account the actual period of experience of the petitioners in the transport business.

6. It is further submitted that thereby due to erroneous considerations of less period of experience of the petitioners, they have been granted less marks and ultimately placed below the other incumbents, in spite of their having enormous experience in the transport business.

7. Mr. Samanta, has relied on the statement of the petitioners made in the supplementary affidavit that the petitioners have been pursuing their business in transport from the year 2001 and they are in possession of valid permit till 2029. On the basis of the same, Mr. Samanta, would say that in the broadsheet since the Board has mentioned the petitioner's experience as 3 years and 4.5 years respectively, the same is an erroneous recording, not maintainable and not worth consideration in case of the present petitioners.

8. The same has allegedly resulted to refusal of offer letter to the petitioners which they would have otherwise been eligible to, Mr. Samanta says.

9. Hence, he has stated that the writ petitions may be allowed with adequate relief being granted to the petitioners.

10. Mr. Asish Kumar Guha, learned counsel is representing the State in WPA No. 17054 of 2024 and Mr. Jayanta Samanta, learned counsel is representing the State in WPA no. 17055 of 2024.

11. According to the State respondents, the petitioners have been granted an offer letter on the route of 45A and 45B on November 5, 2024.

12. Hence, they would not be any further aggrieved with the alleged refusal of offer letter to them and the present writ petitions would be infructuous on that score.

13. Heard the submissions and perused the records. It appears that there have been two vacancy notifications declaring 2 and 25 vacancies respectively, that is, in the year 2023 and on August 6, 2024 respectively.

14. The impugned resolution dated May 3, 2024 is with respect to the vacancies declared in the year 2023.

15. The Court finds that the petitioners have been granted offer letters with respect to their applications, made pursuant to the vacancy notification dated August 6, 2024, which is a separate proceeding altogether for filling up 25 vacancies on the route. There is no material available to the Court to find that the notification dated August 6, 2024 takes into its purview the vacancies earlier declared in the year 2023. Hence, the impugned notification still stands showing the inadequacy of experience of the petitioners, which according to them is an erroneous calculation and consideration.

16. In that event, the Court cannot concur with what has been submitted on behalf of the State that the present writ petition would be infructuous, pursuant to

grant of offer letter on November 5, 2024 to the petitioners, in connection with the vacancy notification dated August 6, 2024.

17. On the contradictory, it is found that the Board's resolution dated May 3, 2024 is the culmination of the separate process, earlier initiated by notifying 2 vacancies in the year 2023. There would not be any interconnection and interchangeability between those, so far as the resolution of the Board dated May 3, 2024 is concerned, which is based on the broadsheet showing the petitioners' experience therein as 3 years and 4.5 years respectively. As per report submitted on behalf of the State respondents, at the relevant point of time, the petitioners were not operating under any valid permits. Hence, the experience of the petitioners is stated to have been calculated, in terms of the period during which they held valid permits.

18. The said submission, however, does not inspire confidence in the mind of the Court for two reasons. Firstly, that the explanation as above or the reasons as above, have not been enumerated in the resolution of the Board dated May 5, 2024 as the reason for considering petitioners experience for much lesser period than actual or granting him/her lesser number on that score. Secondly, on the basis of the affidavit submitted by the petitioners, they have stated on oath that from 2001 they have been operating and still operating continuously as per till that the valid permits, which exist up to 2029.

19. In view of the contradictory facts as above, having emerged during hearing of the case, the Court is constrained to consider the decision of the authorities in the resolution dated May 3, 2024, vide agenda nos. 5 and 6 to be based on erroneous material leading to the erroneous decision of the authorities in that regard.

20. It is however learnt that the persons found eligible in the said resolution for grant of offer letters in the said routes, has already been granted the offer letters.

21. Considering all as above, the Court finds it proper to direct the respondent Board, RTA, Kolkata Region to reconsider for grant of offer letter as against the 2 vacancies earlier declared in the year 2023, on the route No. 45A and 45B. However, as for the ends of justice, the Court is not inclined to set aside the resolution dated May 3, 2024 but directs that further effect/implementation thereof shall be kept in abeyance, so far as the resolution nos. 5 and 6 are concerned, till the time a decision is taken by the said Board, in connection with the said vacancy notification as mentioned above.

22. In doing so, let the Board grant adequate reasonable opportunity to the petitioners as well as any other person/s as it may deem fit and proper and pass a reasoned order.

23. Let the decision thereof after considering the matter afresh, be communicated to the parties within one week from the date of its decision.

24. Let the entire exercise as above be concluded within a period of six weeks from the date of communication of copy of this order.

25. Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.

26. With the above observations and directions, the writ petitions being WPA 17054 of 2024 and WPA 17055 of 2024 are disposed of, along with the pending applications, if any.

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

(Rai Chattopadhyay, J.)