

12.08.2025
(D/L-7)
Ct. No.4
(B.K.N.)

W.P.C.T. 180 of 2016
With
CAN 1 of 2019 (Old No. CAN 9374 of 2019)

Shri Surajit Manna
Vs.
Union of India & Others

Mr. A. K. Gayen,
Ms. A. A. Gayen

...for the Petitioner

Mr. Anirban Mitra

...for the Union of India

1. Heard learned advocate for the writ petitioner as well as the learned advocate representing the respondents.
2. The applicant/writ petitioner participated in a departmental exam for the post of LDC. The advertisement provided an option to the candidates to answer paper-II and III in Hindi or in English. Such option was qualified by a stipulation in the advertisement which reads:

“..... The option will be for a complete paper and not for different questions in the same paper.”.....

3. It is the grievance of the petitioner that he obtained information under RTI which revealed that the second empanelled candidate namely one Mr. Navin Kumar Singh, respondent no. 5 before the Tribunal has not complied with the stipulation contained in the advertisement, extracted above. He has not written the complete paper-II in Hindi or in English. It is his allegation that the said respondent in fact has

answered some of the question in Paper-II in English and some in Hindi. On account of such a violation of the terms and conditions of the advertisement he submits that the respondent is disentitled to the benefits of marks obtained in the recruitment process based on which he was placed second in order of merit in the recruitment process.

4. The learned advocate for the respondent on the other hand submits that it is nobody's case that the answers written by the private respondent no. 5 is incorrect. The alleged violation of the stipulation contained in the advertisement is untenable at the instance of the applicant/writ petitioner who was placed at serial number 4 in order of merit in the result of the recruitment process. Thus, even if the respondent no. 5 is excluded from the recruitment process the petitioner would not gain any advantage as he is not the next empanelled candidate.
5. The petitioner in order of merit finds place at serial no. 4 in the result of the examination having scored 299 marks whereas the third empanelled candidate above him and below the private respondent no. 5 had obtained 301 marks.
6. It is further submitted that the answers written by the private respondent are not incorrect. The authorities have examined the issue and found that an ambiguity

has crept into the process in view of Clause 3 printed on paper-II which reads:

“INSTRUCTIONS TO THE CANDIDATES

.....
.....
.....
3. Answers are to be written either in English or Hindi.
.....”

- 7. In the question paper there appears to be an omission to mention the stipulation occurring in the advertisement extracted above requiring the candidates to use one particular language, Hindi or English for the complete paper. At any rate raising of such an omission does not inure to the petitioner’s benefit and, therefore, the recruitment process having been completed the Tribunal has rightly not interfered with the result as the issue raised by the petitioner would not in any way benefit him.
- 8. Considering the rival submissions we find that the admitted position is that the petitioner was at serial no. 4 in the result of the examination even if the second candidate’s result is interfered with on account of such omission in the question paper, for which the candidate is not responsible in any way, he would be made to suffer without any benefit accruing in favour of the applicant/writ petitioner.
- 9. We further find that the Tribunal has taken note of the fact that the third empanelled candidate, just below the fifth respondent against whom allegations have

been made, has not been made a party by the writ petitioner before the Tribunal.

10. We are also informed that the third empanelled candidate has not come forward to assail the recruitment process or the result of the second empanelled candidate. Under the circumstances we find that the order of the Tribunal does not cause any prejudice giving rise to any injustice or miscarriage of justice which the petitioner can espouse by way of the present writ petition.

11. We, therefore, find no reason to invoke our extraordinary and discretionary jurisdiction under Article 226 of the Constitution of India to interfere with the findings of the Tribunal.

12. The writ petition is dismissed.

13. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)