

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble Acting Chief Justice SUJOY PAUL
&
The Hon'ble Justice PARTHA SARATHI SEN

WP.CT 225 of 2013

Sri Radheshyam Mridha
-Vs-
Union of India & Ors.

For the Petitioner: Mr. Sankar Prasad Dalapati, Adv.,
Mr. Sourav Mondal, Adv.

For the U.O.I.: Mr. Rabi Prosad Mukherjee, Adv.,
Ms. Sarda Shah, Adv.

For the
Respondent Nos. 9, 15, 17 & 18: Mr. Puspall Chakraborty, Adv.,
Mr. Prisanika Ganguly, Adv.

Hearing concluded on: 07.11.2025

Judgment on: 14.11.2025

PARTHA SARATHI SEN, J. : -

1. The subject matter of the instant writ petition as filed under Article 226/227 of the Constitution of India is the judgment and order dated 03.05.2013 as passed in OA 1776 of 2010 by the Central Administrative Tribunal, Calcutta Bench, Calcutta (hereinafter referred to as the said Tribunal in short). By the order under challenge, the said Tribunal

dismissed the said original application as filed by the writ petitioner herein by holding that there is hardly any scope to interfere with the result as published by the respondent authorities in connection with Advertisement No. 01/10/2007-P.III., a copy of which is annexed at Page No. 286 of the instant writ petition.

2. For effective adjudication of the instant lis some relevant facts leading to filing of the said original application before the said Tribunal are required to be dealt with and those are discussed hereunder in seriatim:-

- (i) The Respondent No. 1, authority published an advertisement being Advertisement No. 01/10/2007-P.III in the Employment News 8-14th December, 2007 for the recruitment of Zoological Survey of India Scientist-C for the one post.
- (ii) Similarly, the Respondent No. 1 authority also published another advertisement being Advertisement No. 01/09/2008-P.III in the Employment News 29th March- 4th April, 2008 for recruitment of Zoological Survey of India Scientist-C for 17 posts.
- (iii) The writ petitioner applied for the said one post of Scientist -C in respect of the aforementioned advertisement of 2007 and subsequently on 09.04.2008 he also applied for the post of Scientist -C in connection with the advertisement of 2008.
- (iv) The Screening Committee while shortlisting the candidates rejected the candidature of the writ petitioner on the ground of age bar.

- (v) Being aggrieved with such decision the writ petitioner filed OA No. 1069 of 2008 before the said Tribunal and the said Tribunal by an interim order dated 20.10.2008 permitted the petitioner to appear in the interview in the selection process of 2007.
- (vi) The notification dated 30.03.2009 as published by the respondent authorities regarding upper age limit of the departmental candidates were challenged by filing OA Nos. 1069 of 2008, 1070 of 2008, 1073 of 2008, 1074 of 2008 and 1102 of 2008 before the said Tribunal.
- (vii) By an order dated 30.09.2009 the said Tribunal held that the said notification dated 30.03.2009 regarding upper age limit is not applicable and thus directed the authorities to publish the result.
- (viii) The writ petitioner participated in the selection process in respect of advertisement of the year 2007. However, he found himself unsuccessful in such recruitment process.
- (ix) The writ petitioner challenged the said result as published in connection with the advertisement of 2007 before the said Tribunal by filing OA No. 1776 of 2010 which was however dismissed by the said Tribunal by an order dated 06.12.2010.
- (x) On 08.03.2011 the writ petitioner filed WP.CT No. 72 of 2011 before this High Court challenging the said order dated 06.12.2010 as passed by the said Tribunal.
- (xi) On 28.04.2011 this High Court allowed WP.CT No. 72 of 2011 and remanded OA No. 1776 of 2010 for consideration afresh.

(xii) By the impugned judgment and order dated 03.05.2013 the said Tribunal again dismissed OA No. 1776 of 2010 giving rise to the instant writ petition.

3. At the time of hearing Mr. Dalapati, Learned Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to the impugned judgment and order dated 03.05.2013 as passed by the said Tribunal in OA No. 1776 of 2010. Attention of this Court is drawn to Page No. 230 vis-à-vis Page No. 275 of the instant writ petition.

4. It is argued by Mr. Dalapati that on comparative study of Page No. 230 and 275 of the instant writ petition it would reveal that the committee constituted for shortlisting the candidates had decided to award various marks to the applicants considering their educational qualifications, research works and experience. It is argued that from Page No. 230 of the instant writ petition it would reveal that the present writ petitioner was awarded with no marks though the writ petitioner was at that material time possessed of not only essential qualification and experience but also he had had desirable qualifications in terms of the said advertisement of 2007 as well as of 2008. It is thus submitted by Mr. Dalapati that from the action of the respondent authorities it would reveal that the writ petitioner was unreasonably discriminated at the time of shortlisting of candidates which the said Tribunal failed to visualize.

5. It is further submitted by Mr. Dalapati that the said Tribunal has also failed to visualize that the respondent authorities have miserably failed to consider that the respondent authorities herein have violated the norms of the Department of Environment, Forest and Wildlife Scientific Group 'A' Post

Rules, 1987 (hereinafter referred to as the said Rules in short), a copy of which has been annexed at Page Nos. 69 and 70 of the instant writ petition. At this juncture, attention of ours is drawn to Page No. 286 of the instant writ petition being a copy of the total marks secured by the candidates in the interview in respect of the advertisement of the year 2007.

6. It is submitted by Mr. Dalapati that on comparative study of the different marks as have been awarded to the candidates including the writ petitioner it would reveal that the writ petitioner was awarded less marks in comparison to other candidates who appeared in such interview in connection with the advertisement of 2007 basically on account of non-awarding of marks by the shortlisting committee. It is thus submitted by Mr. Dalapati that the action of the respondent authorities is thus violative of Article 14 and Article 16 of the Constitution of India which the said Tribunal has failed to consider for the reason best known to it.

7. It is thus submitted by Mr. Dalapati that in view of such unlawful discrimination on the part of the respondent authorities, the writ petitioner is entitled to the reliefs as prayed for.

8. In his next limb of submissions Mr. Dalapati draws attention of this Court to Page No. 146 to 155 of the instant writ petition being a copy of the notification dated 23.09.1987 as published by the Ministry of Environment and Forest. It is submitted by Mr. Dalapati that by virtue of said notification the then existing designation "Scientist-C" has been redesignated as "Scientist -SD".

9. At this juncture, Mr. Dalapati again took us to Page No. 167 to 174 of the instant writ petition being a copy of the rejoinder as filed by the writ

petitioner in OA No. 1776 of 2010. It is submitted by Mr. Dalapati that from the averments of the said rejoinder as submitted before the said Tribunal it would reveal that the writ petitioner has specifically pleaded that the Private Respondent Nos. 17, 15, 9 and 8 were either less qualified in the field of specialization or having no experience/ less experience and even then they have been selected by the respondent authorities in terms of the said two advertisements depriving the genuine candidature of the writ petitioner which shows arbitrariness, malafidness and nepotism on the part of the respondent authorities in the action of the respondent authorities while selecting the successful candidates for the post of Scientist-C (subsequently redesignated as Scientist- SD) and thus the same is required to be interfered with in judicial review.

10. Drawing attention to Page No. 218, 266 and 233 vis-à-vis Page No. 280 of the instant writ petition it is further argued by Mr. Dalapati that on comparative study of the said pages it would reveal that some of the private respondents though have got no essential qualification for the selection for the post of “Scientist-C” (redesignated as “Scientist-SD”) and even then they were found to be selected in connection with the recruitment process of the year 2008.

11. It is thus submitted by Mr. Dalapati that the action of the respondent authorities in connection with the recruitment process of 2007 and 2008 thus clearly shows the absence of transparency which is mandatory requirement in a public employment and on such score an appropriate order may be passed for giving due notional benefit to the writ petitioner since the writ petitioner has already superannuated from his service on 31.07.2020

keeping in mind the unlawful deprivation of the writ petitioner in the said two selection processes.

12. Per contra Mr. Mukherjee, Learned Advocate appearing on behalf of the respondent authorities/ Union of India and its instrumentalities however contended that from Page No. 286 of the instant writ petition it would reveal that the writ petitioner participated in the selection process of 2007 in terms of Advertisement No. 1/10/2007-P.III as has been published in Employment News 8-14th December, 2007. It is further submitted by Mr. Mukherjee that in absence of any material to substantiate that the writ petitioner was a candidate in the subsequent recruitment process under Advertisement No. 01/09/2008-P.III as published in the Employment News 8-14th December, 2007, the writ petitioner has got no locus standi to challenge the recruitment process of 2008.
13. It is further submitted by Mr. Mukherjee that from the pleadings of the instant writ petition it would reveal that the writ petitioner has got no grievance at all in respect of successful candidates of the recruitment process of 2007.
14. It is further argued by Mr. Mukherjee that the said Tribunal rightly observed that there is hardly any scope to interfere with the result as published in connection with the recruitment process of 2007 inasmuch as no material could be placed before the Tribunal that the Selection Committee has acted unreasonably and/or in a biased manner. It is thus submitted by Mr. Mukherjee that the instant writ petition is devoid of any merits and is liable to be dismissed.

15. While adopting the argument of Mr. Mukherjee, Mr. Chakraborty, Learned Advocate appearing on behalf of the Private Respondent Nos. 9, 15, 17 and 18 draws our attention to the said two advertisements of the year 2007 and 2008. Drawing further attention of ours to Page No. 275 of the instant writ petition it is argued by Mr. Chakraborty that no materials could be placed before this Court as well as before the said Tribunal that the marks awarded for shortlisting the candidates have been taken into consideration by the Selection Committee while selecting the successful candidates. It is further submitted by Mr. Chakraborty that since the writ petitioner was permitted to appear in the recruitment process of 2007, the question of allotment of marks for the purpose of shortlisting of candidates has lost its significance,

16. It is further submitted by Mr. Chakraborty that the writ petitioner being not a candidate of 2008 selection process is not entitled to challenge the correctness of such election process. Mr. Chakraborty thus submits that the instant writ petition may be dismissed.

17. In his reply Mr. Dalapati, learned Advocate appearing on behalf of the writ petitioner further contended that on careful study of Page Nos. 276 to 286 of the instant writ petition it would reveal that selection of candidates in respect of recruitment process of 2007 and 2008 was conducted by the selfsame interview Board in the same selection process. It is thus argued by Mr. Dalapati that it is thus preposterous to suggest that the writ petitioners have got no locus standi to challenge the result of the recruitment process of 2008 especially when sufficient materials have been placed that the

selection committee for the recruitment process of 2007 and 2008 acted in a biased manner and with palpable unreasonableness.

18. We have meticulously perused the entire materials as placed before us. We have given out anxious considerations over the submissions of the Learned Advocates for the contending parties.

19. On careful perusal of the said Rules it appears to us that though the said Rules deal with the appointment of Scientist-SC which was previously designated as Scientist-C however, the said rules do not prescribe any norms/ mode of appointment. Materials have been placed before this Court that pursuant to the said two advertisements of 2007 and 2008 a short-listing committee was constituted and the said committee in its meeting as held on 15th to 18th September, 2008 have decided to award different marks to the aspiring candidates based on their academic qualifications, research works and research experience basically for the purpose of shortlisting.

20. Materials have been placed before us that the said selection committee found the present writ petitioner as ineligible because of 'over age' and therefore the said short-listing committee did not award any marks to the writ petitioner.

21. Though in course of his argument Mr. Dalapati strongly contended that since such marks were not awarded by the short-listing committee to the writ petitioner, he obtained lesser marks in the interview in connection with the Advertisement No. 01/10/2007-P.III, however, we do not find any force in such submission of Mr. Dalapati inasmuch as no materials could be placed on behalf of the writ petitioner that while publishing the final result/total marks secured by the candidates in the interview, the marks as

awarded by the committee for short-listing of candidates have been added with the marks achieved by the candidates in the interview.

22. In our further considered view, the alleged non-awarding marks by the committee for shortlisting the candidates has become insignificant in view of the fact that the writ petitioner and other 18 members of the departmental candidates were permitted by the said Tribunal to appear in the interview in the selection process in the year 2007 and 2008.

23. In further considered view of ours there is hardly any scope to doubt the marks secured by the candidates in the interview in respect of the Advertisement No. 1/10/2007-P.III in the absence of any material to show that the members of the said interview Board acted contrary to the rules and/or in a biased manner and/or in gross violation of the procedure for selection of the successful candidates. As rightly observed by the said Tribunal that when the writ petitioner has participated in the recruitment process of 2007 and having failed in the same, the writ petitioner cannot challenge such selection process.

24. We are also in respectful disagreement with the submission of Mr. Dalapati that since the interview of the shortlisted candidates of the recruitment process of 2007 and 2008 were taken on the same day by the selfsame members of the Board of Interview a presumption may be drawn, the selection process of 2007 and 2008 have been merged together and a common result has been published. Materials have been placed before this Court that though in respect of the said two recruitment processes of 2007 and 2008, interview for selection of the successful candidates was taken by

the self-same members of the interview board, it does not ipso facto mean that the said two selection processes have been merged.

25. On careful perusal of Page Nos. 279 to 286 of the instant writ petition, it rather appears to us that the respondent authorities published result in respect of the successful candidates of the recruitment process of 2007 and 2008 separately mentioning therein the categories of the candidates.

26. We are in agreement with the contention of Mr. Mukherjee and Mr. Chakraborty that since the writ petitioner has miserably failed to produce a single scrap of paper that he was a shortlisted candidate for the recruitment process of 2008, in our considered view the writ petitioner has got no locus standi to challenge the recruitment process of 2008.

27. We have meticulously gone through the copy of the original application as filed by the writ petitioner in OA No. 1776 of 2010 before the said Tribunal. It appears to us that in the said application there was however no pleading on the part of the writ petitioner that in the recruitment process of 2008, some of the private respondents having no essential qualification for the selection for the post of Scientist-C redesignated as Scientist-SD and even then they have been found to be selected in connection with the recruitment process of the year 2008. On the contrary it appears to this Court that such plea was taken by the writ petitioner for the first time in his rejoinder to the reply as filed by the private respondents before this said Tribunal.

28. In view of such a pertinent question arises for our consideration as to whether an averment made in the rejoinder by the writ petitioner can at all be taken into consideration. In this regard, we propose to look to the

reported decision of **Arti Sapru & Ors. vs. State of J&K & Ors.** reported in **(1981) 2 SCC 484** wherein the Hon'ble Apex Court while dealing with an identical situation expressed the following:-

“15. Shri Soli J. Sorabjee then contends that a number of candidates were selected for admission because of favouritism on account of relationship or friendship with members of the Selection Committee or because they were related to important and influential persons in the State. The allegations have for the most part been made for the first time in the rejoinder affidavit and there has been no reasonable opportunity to the respondents to reply to them. Such allegations on this point as are contained in the writ petition are extremely vague and sketchy, and can form no basis for a finding in favour of the petitioner.”

(Emphasis Supplied)

29. In view of the proposition of law as decided in the case of **Arti Sapru (Supra)** we have no hesitation to hold that the versions of the writ petitioner in his rejoinder as filed before the said Tribunal in 1776 of 2010 is/are of little significance since the private respondents got no opportunity to controvert such fresh allegation as labelled against them by the writ petitioner.

30. For the sake of argument, even if we consider that the allegations as made by the writ petitioner in the said rejoinder have some basis even then such allegations against the private respondents regarding their alleged ineligibility on account of their alleged having no essential qualification for the selection for the said post of Scientist-C redesignated as Scientist-SD, cannot be considered favourably inasmuch as no materials could be placed on behalf of the writ petitioner that he participated in the recruitment

process of 2008 and had been unlawfully eliminated and/or discriminated on account of selection of the private respondents for the said post.

31. At this juncture, we propose to look some of the cardinal principles of law governing exercise of extraordinary jurisdiction under Article 226 of the Constitution more particularly when it comes to issue of writ of certiorari. The reported decision of **Central Council for Research in Ayurvedic Sciences & Ors. vs. Bikartan Das & Ors.** reported in **(2023) 16 SCC 462** the Hon'ble Apex Court expressed the following view:-

"52. Relying on T.C. Basappa reported in AIR (1954) SC 440, the Constitution Bench of this Court in Hari Vishnu Kamath, laid down the following propositions as well established: (Hari Vishnu Kamath case reported in AIR (1955) SC 233, SCC p. 899, para 24)

"24... 24.1. "Certiorari" will be issued for correcting errors of jurisdiction, as when an inferior court or tribunal acts without jurisdiction or in excess of it, or fails to exercise it.

24.2. "Certiorari" will also be issued when the court or tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard. or violates the principles of natural justice.

24.3. The court issuing a writ of "certiorari" acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous."

32. Keeping in mind the aforementioned principle of law as decided in the case of **Bikartan Das (Supra)** if we once again look to the factual aspects as involved in the instant writ petition it appears to this Court that the writ petitioner before us has miserably failed to establish that the said Tribunal

while passing the impugned judgment acted without jurisdiction and/or in excess of it. It is also not the case of the writ petitioner that the said Tribunal violated the principle of natural justice by depriving the writ petitioner to give any opportunity of hearing.

33. It is settled principle of law that while sitting in a judicial review a writ court is not supposed to revisit the facts as analysed by the Tribunal in absence of glaring illegality and/or irregularity and/or perversity. It appears to this Court that while passing the impugned judgment the said Tribunal rightly noticed ineligibility of the writ petitioner on account of his non-participation in the 2008 selection process. It further appears to us that the said Tribunal also noticed that no material could be placed before it that the selection committee and/or the interview Board has unreasonably deprived the writ petitioner by awarding less marks.

34. The instant writ petition is thus devoid of any merit and is thus dismissed. There shall be however no order as to costs.

35. The interim order if there be any, stands hereby vacated.

36. Urgent Xerox certified copy, if applied for, be given to the parties on completion of usual formalities.

I agree.

(SUJOY PAUL, A.C.J.)

(PARTHA SARATHI SEN, J.)

(P.A- Pramita)