

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
(Appellate Side)

W.P.A. NO 28779 OF 2025

SAROAR JAHAN BISWAS

VS.

THE STATE OF WEST BENGAL & OTHERS

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner	: Mr. Sakti Pada Jana Ms. Sudipta Pramanik
For the State	: Mr. Sirsanya Bandopadhyay Mr. Pradipta Siddhanta Mr. Sandip Das Gupta Ms. Mahima Cholera Mr. Niket Ojha
For the WBCSSC	: Ms. Pramiti Bandopadhyay Mr. Arka Kumar Nag Mr. Rahul Kumar Singh
Heard On	: 17.12.2025
Judgment On	: 17.12.2025

SAUGATA BHATTACHARYYA, J.:

1. Affidavit of service filed on behalf of the petitioner is taken on record.

2. Matter is heard in presence of learned advocates representing the petitioner, State respondents and West Bengal Central School Service Commission (for short, "Commission").
3. Petitioner participated in 2nd State Level Selection Test, 2025 for being appointed as an Assistant Teacher of Mathematics for Classes XI-XII. Petitioner applied by submitting online application form declaring himself as differently abled candidate under other handicapped (PH-OH) category. Petitioner participated in the written test and initially petitioner was treated as a candidate under Physically Handicapped (PH) category who was awarded 70 marks whereas under PH category cut-off marks was fixed 55. Reliance is placed on a document at page 77 of the writ petition wherefrom it appears that validity of Disability Certificate of the petitioner was accepted by the Commission.
4. Grievance of the petitioner is while preparing list of candidates for participating in ensuing Personality Test instead of PH-OH category he was considered under General Category as a result whereof petitioner was found not eligible to participate in Personality Test. It appears from page 79A of the writ petition that under General Category 71 was fixed as cut-off marks for participating in Personality Test whereas petitioner obtained 70. It is contended that petitioner ought not to have been treated as General Category candidate while considering candidature of the petitioner for his participation in Personality Test.

5. Case is made out in the writ petition that petitioner is Orthopedically Handicapped. Therefore, he should have been considered as differently abled candidate and considering marks awarded to him i.e. 70 he is required to be given opportunity to participate in ensuing Personality Test as under PH category cut-off marks fixed is 50.
6. It is also submitted that petitioner is untainted candidate who got appointment in connection with 1st State Level Selection Test, 2016 for Classes XI-XII and he is working as an Assistant Teacher at present.
7. Mr. Sirsanya Bandopadhyay, learned Senior Standing Counsel representing State respondents submits that petitioner applied as Physically Handicapped as well as Orthopedically Handicapped candidate which comes under sub-classification PH-LD having locomotor disability. In this regard, attention of this Court has been drawn to the statements made in paragraph 3 of the writ petition wherein it is averred that petitioner is orthopedically disabled.
8. Another limb of submission made on behalf of the State respondents is based on Order dated 8th July, 2019 issued by the Chief Secretary to the Government of West Bengal under Section 34(1) of the Rights of Persons with Disabilities Act, 2016. Copy of said order is placed before this Court and same is taken on record. As per order dated 8th July, 2019 applying 100- Point Roster at the time of identifying vacancies 32nd vacancy needs to be earmarked for Scheduled Caste candidate who comes under persons with disabilities - locomotor disability

including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy. Under Clause 2 of Order dated 8th July, 2019 72nd vacancy is earmarked for unreserved category candidate having other disabilities i.e. autism, intellectual disability, specific learning disability, mental illness and multiple disabilities.

9. It is submitted considering the case made out in the writ petition that petitioner ought not to be treated as PH-OH candidate rather petitioner is required to be treated as PH-LD candidate as described in Clause 2(b) of said Order dated 8th July, 2019. It is further submitted that as 32nd vacancy is to be reserved for Physically Handicapped candidate having locomotor disability and in paragraph 3 of the writ petition petitioner declared himself as a person being orthopedically disabled he is not entitled to get benefit of reservation under 32nd vacancy as envisaged under order dated 8th July, 2019 since the petitioner comes under general category. Therefore, according to State respondents petitioner was treated as General category candidate but considering the marks awarded to the petitioner i.e. 70 he did not come within the zone of consideration.
10. Learned advocate representing the Commission reiterates the submissions made on behalf of State respondents.
11. Having considered the respective submissions made on behalf of the parties and case made out in this writ petition Court is required to consider prayer of the petitioner on the anvil of the order dated 8th July,

2019 issued by the Chief Secretary to the Government of West Bengal. It is specified under Clause 2 of said Order dated 8th July, 2019 that 32nd vacancy is reserved for a candidate having locomotor disability and applying 100- Point Roster if said vacancy is 32nd in that event it is reserved for Scheduled Caste candidate. Had the petitioner been considered as disabled candidate having other disabilities as specified under Clause 2(d) then candidature of the petitioner could have been considered against 72nd vacancy which is for general category candidate.

12. However, there is no dispute relating to nature of disability of the petitioner based on averments made in paragraph 3 of the writ petition that petitioner is orthopedically handicapped.
13. In addition thereto, it appears from Disability Certificate which is at page 43 of the writ petition that petitioner has deformity in right lower limb which corroborates the statement made in paragraph 3 of the writ petition relating to nature of disability.
14. Therefore, Court needs to proceed on the premise whether petitioner can be accommodated against 32nd vacancy applying 100- Point Roster which is reserved for differently abled candidate having locomotor disability. Admittedly petitioner is general category candidate therefore his candidature cannot be considered against 32nd vacancy as a result whereof petitioner was treated as general category candidate to accommodate him in the ensuing Personality Test but considering the

marks obtained by the petitioner he did not come within the zone of consideration. Petitioner obtained 70 whereas under general category cut-off marks was fixed 71.

15. Before parting with it appears that Clause 2 of Order dated 8th July, 2019 prescribed reservation of a post against 32nd vacancy which needs to be reserved for Scheduled Caste candidate having locomotor disability or other disabilities described in Clause 2(b). As per clause 2(b) only Scheduled Caste candidate having locomotor disabilities or other disabilities defined therein will get opportunity of reservation under PH category denying the right of general category candidates or other category candidates having specified disabilities under Clause 2(b) to be considered against said specified vacancy. However, such consideration in the present case is purely academic as no such case is made out in the writ petition rather in paragraph 3 of the writ petition it is averred that petitioner is orthopedically handicapped but applied under PH-OH category.
16. In aforesaid conspectus, writ petition stands dismissed.
17. There shall be, however, no order as to costs.
18. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)