

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 5361 of 2015

Tarun Pan

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Ashis Kr. Chowdhury
: Mr. B.B. Bera
: Mr. Rohal Paul
: Mr. Siddhartha Roy

Judgment Reserved on : **08.04.2026**

Judgment on : **20.05.2026**

Rai Chattopadhyay, J. :-

1. Let an order of the Supreme Court dated December 04, 2014, passed in Writ Petitions (Civil) No. 39 of 2013, 3/51/257/258/206/824 of 2014 and 94/294 of 2012, be mentioned at the threshold. All these cases have been disposed of by the Supreme Court by dint of the said order. Writ Petition (Civil) No. 94 of 2012 is relevant, for the purpose of this judgment. Let the relevant portion of the said order dated December 04, 2014, be quoted, as follows: -

"4. In our opinion, this matter can be decided by the High Court under its jurisdiction under Article 226 of the Constitution of India. Therefore, we transfer this matter before the Calcutta High Court for the consideration and early disposal after affording opportunity of hearing of both the parties.

5. Interim order dated 7th November, 2013 passed by the High Court of Calcutta in Writ Petition No. 1019 of 2013, which is pending consideration before the Calcutta High Court, shall continue in this writ petition as well till the final disposal of the matter by the High Court.

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Writ Petition (Civil) Nos. 94 of 2012, 294 of 2012, 3 of 2014, 51 of 2014, 257 of 2014, 258 of 2014, 206 of 2014, 824 of 2014

In view of the order passed in Writ Petition No. 39 of 2013 , all these writ petitions are disposed of in the same terms, observations and directions.”

2. Thus, the Writ Petition (Civil) No. 94 of 2012, having been transmitted to this Court, has subsequently been registered as W.P. No. 5361 (W) of 2015. Vide an order of this Court dated December 18, 2015, the writ petition has been directed not to be maintainable for the then petitioner No. 1/an unregistered teachers' association, but maintainable only for the other petitioner Sri Tarun Pan. The Court directed in the said order dated December 18, 2015 that particulars of the petition No. 1/association shall stand deleted from the cause title.
3. The writ petitioner has been represented by Mr. Ashis Kr. Chowdhury. The respondent/West Bengal Central School Service Commission (in short "SSC"), though appeared initially through the learned Advocate Dr. Sutanu Kumar Patra, but at the later stage of hearing, it has not turned up any further. Hence, hearing of the case has been finally concluded and closed in absence of the respondent/SSC.
4. Subject matter of challenge in this case is a vacancy notification dated December 29, 2011 published by the SSC. According to the writ petitioner, the same is contrary to the law and therefore, is liable to be set aside. He, therefore, has prayed for setting aside of the said notification dated December 29, 2011; the petitioner submits that relaxation of condition prescribing essential qualification, as afforded by the authority has transgressed and violated the procedure prescribed under the law. That, it has been an arbitrary exercise of power and jurisdiction by the authority. He

has prayed for the relief that all available trained persons be appointed as against the available vacant 55000 posts; for this the upper age limit of the trained persons be relaxed in order to enable them to be appointed; that the authority may be directed to follow Schedule I of the notification dated April 28, 2003, for appointment of assistant teachers in the State.

5. The background facts of these may be summerised in the following manner: -

The vacancy notification dated December 29, 2011 has been published allegedly in violation of the guidelines of National Council for Teacher Education (in short NCTE). The petitioner says that the minimum qualification mandatory for appointment of teachers in upper primary, secondary and higher secondary schools, as per NCTE guidelines is the B.Ed. degree, that is the training qualification. The writ petitioner's allegation is that the respondent authority has misutilised the provision made in notification of Government of India dated June 01, 2011, in which relaxation of essential mandatory minimum qualification, has been allowed on certain contingencies. According to the petitioner, the same has been provided to combat an unforeseen situation when number of trained persons might fall short of number of vacancies. That, the question of relaxation of essential mandatory minimum qualification arises only at a point of time like this. According to the writ petitioner there was no such imminent urgency due to any shortfall in the number of the trained eligible persons, so that the authorities could impose relaxation condition and appoint untrained teachers, leaving aside the petitioner, who otherwise qualifies the eligibility criteria, in terms of qualification including training qualification. Rather, at the relevant point of time, a total of 82, 517 trained and qualified persons were available for being appointed.

6. Mr. Chowdhury, Learned Advocate for the writ petitioner has submitted that the Supreme Court in WP (C) No. 94 of 2012, has granted interim order inter alia that “we however make it clear that the appointment made of untrained teachers shall abide by the decision of the writ petition”, (order dated April 23, 2014).
7. It is submitted that during the period when such interim order of the Supreme Court was in vogue, the respondent/SSC, by violating the same has conducted the recruitment process and the State has given appointment to the untrained person leaving aside the qualified trained persons. According to Mr. Chowdhury, learned Advocate for the writ petitioner, the same is not only in violation of the Rules of NCTE but also of the order of the Supreme Court. Thus, all appointments given to the untrained persons, is stated to be illegal and unsustainable.
8. Mr. Chowdhury, learned Advocate has further submitted that the State has ignored and suppressed the material data and fact at the time of imposing relaxation of condition of essential qualification required. It is submitted that at the material point of time 145 B.Ed. Training Institutions were operating in the State and 14477 candidates were passed out from there, in each academic year. That, initially 7210 vacancies were declared which was subsequently increased. The State has declared in the affidavit-in-opposition that a total 82517 trained persons applied for in the recruitment process. Only 16871 of them were given appointment to the total 46401 available vacancies. Therefore, he has stated that appointment of 19269 untrained persons is illegal which is subject to and shall abide by the decision in the instant writ petition, as has been directed by the Supreme Court.
9. According to the petitioner, B.Ed. is the mandatory qualification for appointment in the post of assistant teacher in any schools as per NCTE guidelines but the Government of West Bengal issued

the recruitment notification dated 29.12.2011 by allowing the non-B.Ed candidates to participate in the selection process as such the notification itself is bad in law and liable to cancel; that the respondent authorities conducted the RLST, 2012 in connection with the notification of 29.12.2011 by giving appointment to the 19269 non-trained candidates by depriving the trained candidates like that of the petitioners which is absolutely illegal and violation of the guidelines of the NCTE norms as such the appointments of the non-trained candidates are liable to cancel and SSC are legally bound to give appointments to the trained candidates like that of the petitioners; that the relaxation for appointment of non-trained candidates was obtained from the HRD, Government of India by suppression of facts that under the West Bengal that time there were not sufficient trained candidates for appointment to the post of assistant teacher in different Schools

10. Also that, all persons similarly situated should be treated similarly. It is submitted that only because one person has approached the Court that would not mean the other persons similarly situated should be treated differently. That, in **Tania Ghosh & Ors vs. The State of West Bengal & Ors** all-the trained candidates have been directed to be given appointment. As such the petitioner is also legally entitled to get the appointment as a similarly situated candidate; that in the recruitment process the essential qualification cannot be relaxed where the relaxation has not been provided for in the statutory Rules itself and the relaxation thereof bereft of any sanction by the statute tantamount to gross arbitrariness in exercise of power by the authority. In the instant case relaxation of essential qualification for appointment of non-trained candidates in the place of trained candidates was made after the selection process was over. As such the acts and actions of the authorities are illegal and in violation of the principle of law that the essential qualification cannot be relaxed and any

appointments which is contrary to the law would be void in law. Such illegality cannot be regularized and any appointment which was made in violation of the law, would be a nullity.

11. Mr. Chowdhury, learned advocate for the petitioner has referred to the following judgments: -

i. PURUSHOTTAM VS CHAIRMAN, M.S.E.B AND OTHERS [(1999) 6 SCC 49 / (1999) 0 Supreme (SC) 642] [Para. 4]

Duly selected candidate could not be denied appointment on the pretext that Panel's term had expired and post had been filled up by someone else.

ii. STATE OF ORISSA AND OTHERS VS MAMATA MOHANTY [(2011) 3 SCC 436 / (2011) 0 Supreme (SC) 160] [Para. 41, 42, 50, 59]

Essential qualification-cannot be condoned and relaxation of educational qualification cannot be permitted where the relaxation cannot be permitted in the Statutory Rules violating that the appointment would be nullity.

iii. STATE OF KARNATAKA AND OTHERS VS C. LALITHA [(2006) 2 SCC 747 / (2006) 1 Supreme 640] [Para. 29]

Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently.

iv. PRAMOD KUMAR VS U.P. SECONDARY EDUCATION SERVICES COMMISSION [(2008) 7 SCC 153 / (2008) 0 Supreme (SC) 433] [Para. 16, 18]

If the essential educational qualification for recruitment to a post is not satisfied, ordinarily the same cannot be condoned. Such an act cannot be ratified. An appointment which is contrary to the statute/statutory rules would be void in law. An illegality cannot be regularized.

v. MAHARASHTRA STATE ROAD TRANSPORT CORPN. AND OTHERS VS RAJENDRA BHIMRAO MANDVE AND OTHERS [(2001) 10 SCC 51] [Para. 7]

Avoid reopening the selection process and/or dislocating the persons to appoint the petitioners for adjustment of equities.

vi. RAM VIJAY KUMAR AND OTHERS VS STATE OF BIHAR AND OTHERS [(1998) 9 SCC 227 / (1997) 0 Supreme (SC) 1189] [Para. 4 (i)]

Direction upon the Commission to conduct a special selection for the purpose of appointment on these unfilled posts from amongst the applicants/petitioners.

vii. RAMESH KUMAR VS UNION OF INDIA [(2015) 14 SCC 335 / (2015) 0 Supreme (SC) 761] [Para. 14, 15]

When the administration has wrongly denied his due then in that case the full benefits should be given to the candidates.

- 12.** In their affidavit-in-opposition, the respondent/SSC has furnished the following information: -

“(i) Total number of vacancies advertised :

46401 (Forty six thousand four hundred one). It is to be noted that after publication of the advertisement for 12th Regional Level Selection Test, 2011 (12th RLST, in short) conducted by the West Bengal Central School Service Commission a large number of vacancies were declared by the Government of West Bengal following the Right of Children to Free and Compulsory Education

Act, 2009 and after inclusion of those subsequently declared vacancies the total number of vacancies came to 46401 (Forty six thousand four hundred one) against which the selection process through 12th RLST was held.

(ii) Total number of appointment letters issued to the candidates :

The West Bengal Regional School Service Commissions only recommend candidates to the reported vacancies. It does not issue any appointment letter. Therefore, this point is answered by stating that the total number of recommendation letters issued to the candidates, as on 24.3.2015, was 30006 (Thirty thousand and six).

Appointment letters are issued to the recommended candidates by the Schools concerned.

(iii) Total number of appointees candidates who secured between 45% to 50% at the graduation level:

7653 (Seven thousand six hundred fifty three). Out of these 7653 candidates 2971 (Two thousand nine hundred seventy one) candidates were recommended against general vacancies and 4682 (Four thousand six hundred eighty two) candidates were recommended against reserved category vacancies.

(iv) Total number of appointees who secured less than 45% at the graduation level :

As the West Bengal Regional School Service Commission only make recommendation and does not give any appointment the point is answered by stating that the total number of recommended candidates who secured less than 45% marks at the graduation level was 5211 (Five thousand two hundred eleven). Out of these 5211 recommended candidates 1713 (One thousand seven hundred thirteen) candidates were against general vacancies and 3498 (three thousand four hundred ninety eight) candidates were against reserved category vacancies."

13. As none appears to represent the said respondent, the statement made in the affidavit-in-opposition as above are taken as the defense of the said respondent in this case.

14. There have been several rounds of litigation concerning the process of recruitment in the State in 12th RLST. In **Tania Ghosh and Others versus State of West Bengal and Others [W.P.No.**

1019 (w) of 2013 vide the order dated February 7, 2013], the Court had ordered that in the 12th RLST preference in appointment must be given first to candidates who possess minimum qualifications (B.Ed) as prescribed by the NCTE guidelines dated August 25, 2010; that it is only there after that unqualified candidates were to be appointed subject to vacancies.

- 15.** The orders of this Court dated August 26, 2020 [by the Hon'ble Single Bench in W.P. No. 477 (w) of 2018 along with other writ petitions], January 12, 2021 [by the Hon'ble Division Bench in M.A.T No. 619 of 2020 along with the other appeals] and March 19, 2021 [in review petition No. RVW 19 of 2021 along with the other review petitions] assumes importance along with the order passed by the Hon'ble Supreme Court dated July 21, 2022 in Special Leave Petition (Civil) Nos. 13810 - 13817 of 2021 [and other Special Leave Petitions]. It can be concisely stated that the Courts in those orders have dismissed the petitioner's challenge on various grounds as to the process of recruitment in 12th RLST in the State.
- 16.** In order dated August 26, 2020, the Hon'ble Single Bench has held as follows:

"3. The subject matter of challenge is the recruitment process to the post of Assistant Teachers initiated pursuant to the advertisement No. 01/AT/11 dated 29.12.2011 issued by the West Bengal School Service Commission (SSC).

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44. In so far as allegation of the petitioners that the SSC has not followed the dicta that qualified candidates must be given first preference and it is only thereafter that unqualified candidates would be given appointment, the writ petitioners have not been able to demonstrate any impropriety after inspecting all the panels and waiting lists, produced before this Court by the SSC.

45. Not a single case of any person enlisted in the panels have been shown to have been disentitled. Counsels for the petitioners have also not been able to point out a single case of any candidate having been appointed contrary to the

dicta in Tania Ghosh Case (Supra). The arguments of the petitioners must, therefore, be deemed as academic, speculative and based on conjecture and surmise.

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53. What is clear is that there were admittedly 46,401 final vacancies and only 2,9575 candidates were empanelled. The SSC has answered that suitable number of candidates were not available. The same must be accepted as the only logical answer albeit as a fait accompli. It is not known whether the vacancies were either carried forward to the next year or filled up by any other manner.

54. However merely because there are available unemployed candidates the State cannot be compelled to fill them up as already decided by the Hon'ble Supreme Court in the case of Vinodan T and others Vs. University at Calicut reported in (2002) 4 SCC 726. Even a selected candidate does not have a vested right to be appointed merely because vacancy exists. In the instant case none of the petitioners have been able to demonstrate that there were qualified candidates to be appointed. This Court cannot enter into roving enquiry as regards marks and rank of each individual candidate.

55. Also relevant case of Jitendra Kumar and Ors. Vs. State of Haryana and Anr. Reported in (2008) 2 SCC 161 where the Supreme Court has held that State for valid reasons can refuse to fill up vacancies as already stated hereinabove, the SSC has indicated on affidavit that they did not find suitable candidates to fill all 46401 vacancies. At paragraph 47 it was held as follows :-

"47. It is, therefore, evident that whereas the selectee as such has no legal right, the superior court in exercise of its judicial review would not ordinarily direct issuance of any writ in absence of any pleading and proof of mala fide or arbitrariness on its part. Each case, therefore, must be considered on its own merit."

56. The petitioners have not been able to demonstrate any malafides on the part of the SSC in the process of selection. There could be at the most a case of some unnecessary publication of the combined merit list but the subsequent steps cannot be called a complete infraction of Rules. No specific illegality or improper selection has been pointed out the petitioners.

17. The writ petition was dismissed for the reasons quoted above.

- 18.** In order dated January 12, 2021 the Division Bench in appeal has inter alia held:

“The contention of the appellants before us as well as before the learned Single Judge was that the remaining vacancies could not be filled up beyond 29575 candidates was irrational, illegal and they have a right for appointment in view of the existences of the vacancies. The contention of the SSC, on the other hand, appears to be that the Central Commission has fixed qualified marks and it is in the academic interest that the Commission did not fill up the remaining vacancies. The learned Advocate General appearing before us has also stated that it is a decision of an expert body not to fill up vacancies beyond 29575 and in the event of academic interest, the Court may not extend the said benefit to the remaining candidates. While it is true that a candidate empanelled, has no indefeasible right to get appointment to the post for which he has been selected, at the same time, there has to be some justification for the appointing authority not to fill up the vacancies when such vacancies have not been fully exhausted. In the instant case, we find that the SSC has given some justification for not filling up remaining vacancies as to the basis to fill up the vacancies is governed by Rule 7(2) of the Recruitment Rules and it is not for the Court to decide whether the views of the expert body not to fill up vacancies were proper or justified since the Court is not the selecting authority or the authority who shall fix the qualifying marks or the bench mark for that purpose. It has to be left to the discretion of the authorities concerned. However, such actions are not totally immuned for judicial review if it is actuated by malice or malafide or suffers from any illegality. As mentioned earlier the writ petitioners/appellants could not substantiate their claim on malafide or discrimination or illegality with regard to the candidates who were so far selected. The entire record was before them for inspection. All the candidates have the opportunity to scrutinize the list and to find out if there have been any irregularity. The reliance upon the audit report does not advance the case of the petitioner as they have participated in the selection process and just because they are unsuccessful now at this stage they cannot rely upon such report to substantiate their claim. They are not contending before us that the selection of candidates who have been empanelled namely 29,575 has been illegally included or the list prepared is contrary to the Recruitment Rules.”

- 19.** Finally, the Supreme Court in the order dated July 21, 2022, has held in the following manner:

“(9) The actual grievance of the petitioners is that though the total number of vacancies, for the filling up of which the selection was held, was 46401, the respondents eventually empanelled only 29575 candidates, that too after empanelling more than about 36000 candidates in the first instance. According

to the petitioners, the respondents have done so, by increasing the bench mark/bar after releasing the first merit list and that, therefore, this is a case of the respondents changing the rules of the game after the game commenced.

(10) But the above argument is wholly unsustainable. The fundamental principle of service jurisprudence is that it is not necessary for the Government to fill up all the posts for which notification was issued. It requires no legal expertise to accept the proposition that no one has a fundamental right to be appointed to a civil post/service. The right that an individual has is only for consideration for selection.

(11) Though the petitioners attempted to make a mountain out of a molehill, the long and short of the story is that after notifying 46401 vacancies, the respondents first empanelled about 36000 candidates and later reduced the size of the panel to 29575. All the learned counsel for the petitioners agreed that they have no right to seek a direction to the respondents to fill up all the posts notified, though some of the counsel attempted to argue that after the advent of the Right of Children to Free and Compulsory Education Act, 2009, schools are obliged to maintain pupil teacher ratio and that, therefore the candidates have a vested right to seek the filling up of all vacancies. But the said contention is very shallow, since the right conferred by the said Act is upon the children to education and not upon the teachers to seek appointment.

(12) None of the petitioners who went before the High Court ever contended that any candidate who secured lesser marks than them got included in the final panel comprising of 29575 persons. This means that the first panel of the size of 36140 candidates merely got shrunk, without violating the rule of merit or seniority. Once this aspect is not disputed, it should have taken no time for any Court to throw the petitions out of Court.

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(19) At the outset it should be pointed out that there is no rule which states that a person whose name is included in the panel should invariably be appointed. The definition of the word "panel" shows that "panel" is nothing but a list containing the names of as many candidates as there are vacancies. Rule 12(8) contemplates the preparation of a panel as well as a waiting list. The words used in Rule 12(8)(a) are "a panel of candidates found fit for appointment". Merely because a person is found fit for appointment, he cannot compel the respondents to appoint him, unless he is able to demonstrate that less meritorious candidates have been appointed. Therefore, the entire foundation of the case of the petitioners is shallow.

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(24) In view of the above, all the Special Leave Petitions are completely devoid of merits and are liable to be dismissed. Accordingly, the Special Leave Petitions are dismissed. No costs."

- 20.** Hence accordingly, it is also the contention of the respondent/SSC that the dispute raised in the instant writ petition has already been set at rest by the decisive and final verdict of the Court which stands binding on all the parties and the process cannot be challenged any further.
- 21.** To this however, Mr. Chowdhury has certain denial and objections to raise. He submits that the challenge in the writ petition and the consequent appeal and the Special Leave Petition which have been earlier dismissed by the Courts, was regarding irregularities in the combined merit list, reservation categories, due to breach of Rule 12(5), vacancy issues, placement of lower meritorious candidates at a higher up position in the combined merit list etc, principally relating to the alleged illegality and irregularity which had taken place within the process itself. He says that, as opposed to the same, the petitioner in the instant writ petition has challenged the vacancy notification itself dated December 29, 2011 on the ground of its being not in conformity with the NCTE Rules and Guidelines. That the petitioner's challenge here strikes at the very initiation of the process and the alleged illegality would arrest the entire process of recruitment at the threshold and thus the petitioner's challenge is unrelated and not connected with the grievances and challenges of the petitioners in the above noted cases. Mr. Chowdhury, learned advocate has submitted that those cases, therefore, cannot be stated to be similar with the instant writ petition and decision in one cannot bind the petitioner in the other.
- 22.** The objection raised by the writ petitioner that the earlier rounds of litigation pertained only to irregularities committed during the recruitment process and not to the legality of the vacancy notification itself, does not commend acceptance. Upon a meaningful reading of the pleadings and the issues decided in the

earlier writ petitions, appeals and the Special Leave Petitions, it becomes evident that all such proceedings substantially emanated from and revolved around the very same recruitment process initiated pursuant to the vacancy notification dated December 29, 2011 issued in connection with the 12th RLST. The controversy regarding participation and appointment of untrained candidates, alleged deviation from the NCTE norms, relaxation of minimum qualifications and consequential deprivation of trained candidates formed the foundational and inseparable basis of the challenge throughout the entire batch of litigations. The legality of the recruitment process could not have been examined in isolation from the legality of the notification by which such process itself was set into motion. Hence, the present attempt to segregate the challenge to the notification from the broader challenge to the recruitment process is more illusory than real and amounts merely to a change in form without any substantial distinction in subject matter.

- 23.** Moreover, the orders passed by the Hon'ble Single Bench, the Hon'ble Division Bench and finally the Hon'ble Supreme Court, while considering the validity of the recruitment undertaken under the 12th RLST, have conclusively upheld the process and declined interference with the appointments already made. The issue concerning appointment of untrained candidates vis-à-vis trained candidates, which is also the core grievance in the instant writ petition, thus stood conclusively adjudicated and attained finality. Once the superior Courts have authoritatively pronounced upon the validity of the recruitment process arising out of the same notification and concerning the same body of candidates, any further adjudication in the present writ petition would inevitably reopen issues already settled and thereby offend the principles of finality in litigation, judicial discipline and public policy underlying the doctrine analogous to *res judicata* and constructive *res*

judicata. The petitioner cannot be permitted to reagitate, under a different drafting of reliefs, matters which substantially stood concluded in the earlier proceedings.

- 24.** It is also of significance that the reliefs sought in the instant writ petition, namely annulment of appointments of untrained candidates and consequential appointment of trained candidates, are intrinsically connected with and dependent upon the validity of the very recruitment process which has already been upheld by the competent Courts. Any contrary determination at this stage would not only create irreconcilable conflict with the binding judgments rendered earlier but would also unsettle rights and appointments which have attained conclusiveness over a prolonged period of time. Therefore, the cause raised herein having substantially merged with and been answered in the earlier rounds of litigation, nothing survives for independent adjudication in the present writ petition and the same has consequently been rendered infructuous.
- 25.** Apart from the above, this Court also finds that the writ petitioner has failed to establish any enforceable legal right warranting issuance of a writ in his favour. It is not clear from the materials placed on record as to whether the petitioner was at all empanelled or recommended in the selection process. Even assuming that the petitioner had participated in the recruitment process, there is no cogent pleading or material disclosing the precise position secured by him in the merit list or identifying any specific less meritorious candidate who allegedly superseded him and obtained appointment in derogation of his rights. In absence of such foundational facts, the allegation of arbitrariness or hostile discrimination remains vague and unsubstantiated. It is a settled principle of service jurisprudence that a writ Court does not proceed on mere conjectures or general allegations, particularly in

matters concerning large scale public recruitment, unless clear infringement of an identifiable legal right is demonstrated.

- 26.** Even otherwise, mere inclusion of a candidate in a panel or select list does not confer upon such candidate any indefeasible or vested right to appointment. The doctrine is too well settled to require elaboration that empanelment only creates a right to be considered and not an enforceable right to claim appointment as a matter of course. Unless the relevant statutory rules expressly mandate filling up of all advertised vacancies, the State or the recruiting authority retains discretion to determine the extent of appointments to be made, depending upon administrative exigencies, policy considerations, financial implications and overall public interest. Judicial review in such matters remains confined to examining arbitrariness, mala fides or patent illegality. In the present case, no such element has been successfully demonstrated by the petitioner.
- 27.** Further, the reasonableness of the decision and the recruitment process undertaken pursuant to the 12th RLST notification has already received judicial approval in the earlier rounds of litigation culminating before the Hon'ble Division Bench and thereafter the Hon'ble Supreme Court. Once the competent appellate forum has examined the recruitment exercise and found the actions of the authorities to be justified and legally sustainable, the same carries considerable binding and persuasive force while adjudicating the present writ petition arising out of the selfsame process. The petitioner has failed to show that any statutory provision, mandatory rule or enforceable guideline has been violated in a manner causing direct legal injury to him personally. In absence of proof of breach of a legal or statutory right, no writ of mandamus can be issued merely on the basis of an abstract grievance or perceived unfairness. The extraordinary jurisdiction under Article

226 of the Constitution is fundamentally premised upon existence of a corresponding legal duty and its breach affecting the petitioner's accrued legal right, neither of which stands established in the present case.

- 28.** There is yet another aspect of the matter which goes to the root of the maintainability of the present writ petition. The instant proceeding is neither a public interest litigation instituted in accordance with the principles governing public law remedies nor a representative action maintainable on behalf of an identifiable class of persons. As would appear from the records, the writ petition originally instituted also in the name of an unregistered association was, by order of this Court dated December 18, 2015, held to be not maintainable insofar as the said association was concerned and was directed to proceed only at the instance of the individual petitioner. Consequently, the scope of adjudication became confined strictly to the personal and enforceable legal rights, if any, of the writ petitioner himself and not to any generalized grievance concerning the recruitment process or alleged prejudice suffered by other candidates.
- 29.** In proceedings under Article 226 of the Constitution, the existence of a judicially enforceable legal right and a corresponding infringement thereof constitutes the foundational requirement for invocation of writ jurisdiction. A person cannot maintain a writ petition merely on the basis of a perceived illegality in the abstract or on the assertion that the authority has acted contrary to law unless such action demonstrably invades or prejudicially affects his own legal or statutory rights. The writ jurisdiction is essentially remedial and not advisory in character. In the present case, the petitioner has failed to establish that he possessed any accrued or vested right to appointment, that he was unlawfully excluded despite superior merit, or that any candidate demonstrably lower

in merit was preferred over him in violation of statutory rules. In absence of proof of personal legal injury, the petitioner cannot seek to assail the entire recruitment process in the nature of a roving or generalized challenge.

- 30.** The doctrinal distinction between a public interest litigation and an individual service dispute also assumes significance in the present context. Service matters ordinarily do not lend themselves to adjudication in a representative or public interest capacity except in exceptional situations expressly recognised in law. Since the present writ petition has not been instituted as a bona fide public interest litigation satisfying the procedural and substantive requirements governing such proceedings, the petitioner cannot seek to enlarge the scope of the lis beyond his individual cause of action. Once the petitioner failed to demonstrate infringement of any enforceable legal or statutory right personal to him, the writ petition itself became unsustainable in law and no relief under Article 226 can be granted on the basis of broad allegations touching the recruitment process in general.
- 31.** In view of the findings recorded hereinabove, this Court is of the considered opinion that the specific allegations advanced by the writ petitioner do not warrant any further independent adjudication on merits. The challenge raised by the petitioner substantially overlaps with and forms part of the very same controversy concerning the 12th RLST recruitment process which has already travelled through multiple rounds of litigation before the Hon'ble Single Bench, the Hon'ble Division Bench and ultimately the Hon'ble Supreme Court. The issues relating to relaxation of qualification norms, appointment of untrained candidates, alleged deprivation of trained candidates and legality of the recruitment exercise have thus already received authoritative judicial consideration and attained finality. Once the

broader legality of the recruitment process has been upheld by the superior Courts, reopening individual facets of the same controversy at this stage would not only be contrary to the doctrine of finality of litigation but would also result in judicial inconsistency and uncertainty in matters long settled.

- 32.** Furthermore, the petitioner having failed to establish any subsisting legal right personal to him, any adjudication upon the factual allegations made in the writ petition would remain merely academic and hypothetical in nature. Courts exercising jurisdiction under Article 226 do not ordinarily undertake determination of abstract questions or enter into exhaustive factual scrutiny where no effective or enforceable relief can ultimately follow. Since the petitioner has neither established a vested right to appointment nor demonstrated that he suffered actionable prejudice by reason of any identifiable illegality committed against him personally, adjudication of the remaining allegations would serve no fruitful legal purpose.
- 33.** It is also relevant that the reliefs sought by the petitioner, if entertained at this belated stage, would inevitably disturb a recruitment process and appointments which have stood concluded for years and which have already been protected and affirmed by judicial pronouncements of superior forums. The principles of certainty, stability and repose in public administration require that disputes relating to large scale recruitment processes attain quietus at some definite stage. Endless reopening of concluded issues on fragmented or reformulated grounds would be contrary to sound judicial policy and public interest. Therefore, this Court finds that the allegations sought to be canvassed by the petitioner no longer survive for substantive adjudication and need not be examined any further.

- 34.** For the reasons as discussed above, the Court finds no merit in the instant writ petition and the same is dismissed.
- 35.** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)