

MAT 1236 of 2025
(Sk. Rahamatulla Vs. The State of
West Bengal & Ors.)

Mr. Shuvro Prokash Lahiri
Mr. Rajesh Naskar
Mr. Ankan Mondal

... For the appellant

Ms. Tapati Samanta

..... For the respondent no. 4

By preferring this intra-court appeal, the appellant has challenged the order dated 17th April, 2025 passed by the learned Single Judge in a writ petition, being WPA 30111 of 2024. By the said order, the writ petition was dismissed.

The facts giving rise to the present appeal are that, pursuant to an advertisement dated 31st May, 2023, the petitioner/appellant herein, an orthopedically handicapped candidate, participated in the selection process initiated to fill up 23 vacancies for the post of Librarian in sponsored public libraries under the control of the Local Library Authority in the district of Paschim Bardhaman. Out of the 23 vacancies, one post was reserved for a person with physical disability.

It is the specific contention of the appellant that he participated in the written test, as well as in the computer application test and interview. However, he was subsequently denied appointment to the post on the ground that he could not secure the cut-off marks, being 2.5, in the computer test. Being aggrieved by such denial, the petitioner preferred the writ petition.

The learned Single Judge refused to accept the contention of the petitioner on the ground that the petitioner secured only 1.7 marks in the Computer Application test, which was much below the pass marks of 2.5, as clarified in the memo dated 2nd May, 2023 and 29th February, 2024, both issued by the Director of Library Services, West Bengal.

The order impugned noted that as per the notification of the Labour Department, Government of West Bengal dated 8th July, 2019, one post being 12th vacancy was required to be reserved for persons with disabilities of blindness and low vision, as per the Model 100-point roster of vacancies. The petitioner, being an orthopedically disabled person, is not entitled to be considered for the said post.

Mr. Lahiri, learned advocate appearing for the appellant, submits that the rules of the game in the selection process have been changed by fixing a cut-off mark in the computer test. He further submits that the essential requirement for the post was basic knowledge of computer application. He submits that, in the present case, in the advertisement dated 31st May, 2023, there was no stipulation that there would be any cut-off marks in the computer test.

Referring to the memo dated 2nd May, 2023 issued by the Director of Library Services, West Bengal, he submits that the pattern of score for the interview was based on academic marks plus computer test score. He submits that as the petitioner successfully completed the computer test, he was shown as a candidate eligible for appearing in the interview in the list published by the Selection Committee on 10th January, 2024, as

appearing at page 163 of the stay application, and he was also called for the interview. He submits that at this stage, the Selection Committee cannot be permitted to turn around and deny appointment to the petitioner.

Ms. Samanta, learned advocate appearing for respondent no. 4, vehemently opposes the contentions advanced by Mr. Lahiri. She submits that the issue, as urged by Mr. Lahiri, is no longer res integra. She further submits that in an intra-court appeal involving a similar issue, this Bench held that by the memo dated 2nd May, 2023, no new condition had been incorporated in the advertisement, nor were any of the terms contained in the advertisement altered.

Referring to contents of paragraph 5 of the Report filed on behalf of the respondents before the learned Single Bench, she submits that no candidate securing less than 2.5 marks in the computer test has been appointed to the said post.

She submits that, by mistake, the petitioner was allowed to participate in the interview and, although he is an orthopedically handicapped candidate, he was permitted to participate in the selection process for a post reserved for persons with disabilities of blindness and low vision.

She further submits that the State has the authority to correct such mistakes at any stage of the selection process, and such mistake cannot confer any right upon a candidate who has participated in the selection process. She claims that mere participation in a selection process does not give a right to be appointed to the post.

Heard the learned advocates appearing for the respective parties. Perused the materials on record.

Indisputably, in the notification dated 15th March, 2023, the Selection Committee was empowered to shortlist the number of candidates, and was authorized to invite candidates for the computer test in the ratio of 1:7 and for the interview in the ratio of 1:5. Therefore, between the computer test and the interview, there had to be a preparation of a list of shortlisted candidates.

In the present case, the written test was held on 27th August, 2023 and the computer test was held on 11th November, 2023. Much prior to these dates, on 2nd May, 2023, the Department by issuing a notification, clarified that the cut-off marks criteria would be applied in the computer test, and that the cut-off marks would be the passing marks of the West Bengal Board of Secondary Education, i.e., 25 out of 100 i.e. 2.5 out of 10.

Therefore, it cannot be said that the Selection Committee, by applying this provision, has prejudiced the candidates who participated in the selection process. Noting this fact, in the decision in *Animesh Bandyopadhyay vs. State of West Bengal & Ors.*, this Bench has already held that the argument that the rules of the game qua the procedure for selection were altered in the midst of the process is not acceptable.

No participant had been arbitrarily denied selection, and by prescription of cut-off marks, no discrimination has been practised by the authorities in selecting the suitable candidates. No mala fides can be attributed to such action of the respondents, and it cannot be said that the respondents have acted in a manner so as to benefit any particular candidate or candidates.

Thus, we do not find any infirmity in the order under challenge in the appeal. Accordingly, the appeal and its connected application are, thus, dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)