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(DISMISSED)

WPA 28426 of 2024

Basid Hassan
Vs.
The State of West Bengal & Ors.

Mr. Anindya Bose,
Mr. Santanu Maji,
Ms. Debrani Mondal
Ms. Raina Das

.....for the Petitioner

Ms. Sayantanee Bhattacharjee

..... for the State

Mr. Sirsanya Bandopadhyay, Id. Sr.S.C
Ms. Tapati Samanta,

.....for the respondent no. 5

1. The petitioner had applied for the post of District Librarian under the local Library Authority, Malda. The advertisement was made on 29.05.2023. There are three rounds of qualification for ultimate selection. The first round is a written examination, the second is an examination to check the basic knowledge of the aspirant in computer operations and the third is the interview process.
2. The petitioner had succeeded in the first round and had appeared for the second round, in which he had procured 2 marks and been called for the third round, which is the interview. However, after the interview round, the petitioner was unsuccessful and has filed this writ-petition thereafter challenging the interview process as well as the fact that he was not recommended in the first or the second merit list published by the authorities.
3. The petitioner had made an application under Section 6 of the Right to Information Act, 2005, on the basis whereof, on 21.11.2024, the petitioner was informed that his score in the Computer Test Examination (second

round) was 2 out of 10. Thus, the petitioner was not recommended either in the first or the second merit list.

4. Mr. Bose, learned Advocate appearing for the petitioner, submits that since the petitioner was called for the interview round, it can be assumed that the petitioner had qualified in the second round and was eligible for the third round. Thus, there is no justifiable reason as to why the petitioner should not be recommended in the first or the second merit list.
5. Mr. Bose has also placed reliance on a decision of the Hon'ble Supreme Court of India reported in **(2011) 7 SCC 308** (Barot Vijaykumar Balakrishna & Ors. Vs. Modh. Vinaykumar Dasrathlal & Ors.) to buttress his point that in a similar matter where the cut off mark in a *viva voce* was not specified in advertisement, the right course of action would be to fix the cut off mark and notify the candidates called for the interview. This case is distinguishable on facts since in that particular case there was a specific rule that the cut off marks have to be framed and advertised, which is not so in the present case. Cut off marks had been fixed and had a basis, which is *pari materia* with the pass marks in the West Bengal Board of Secondary Education (25 out of 100). Thus, the same parameter has been fixed herein (2.5 out of 10). Thus, the petitioner cannot and indeed does not challenge the cut off marks as fixed. There is absolutely no anomaly in fixing the cut off marks and the alleged non-disclosure of the same cannot be a ground to set aside the entire process, which has already come to an end.
6. It is not the petitioner's case that the marks given to him in the second round suffers from any administration lapse, bias or malice in law or arbitrariness, but merely that he had not been informed of such cut off marks prior

to the stage.

7. Mr. Bandopadhyay, learned senior Standing Counsel, appearing for the respondent no. 5, submits that pursuant to the process being undertaken, the advertisement was issued on 29.05.2023 and prior thereto was forwarded to all the concerned authorities on 02.05.2023, the cut-off for the second round had been fixed on the basis of the West Bengal Board of Secondary Education pass mark which is 25 out of 100, thereby making the qualifying marks in the second round 2.5 out of 10, being 25% thereof. This was prevalent as on the date of publication of the advertisement and had been duly forwarded to all the concerned authorities under the heading of 'Frequently Asked Questions' (FAQ). He further submits that no vested right can be created in favour of any candidate merely because he has been called for interview, for appointment.
8. He has also relied upon three decisions, two of this Hon'ble Court rendered in **MAT 2347 of 2023** (*Nabanita Jana Vs. The State of West Bengal & Ors.*), **MAT 1886 of 2025** (*Animesh Bandyopadhyay Vs. State of West Bengal & Ors.*) and the other one is of the Hon'ble Supreme Court of India reported in **1993 Supp (2) SCC 600** (*Jai Singh Dalal & Ors. Vs. State of Haryana & Anr.*) and **(2024) 8 SCC 124**.
9. From the decisions of Nabanita Jana and Animesh Bandopadhyay (supra), it has been clearly held that in these matters the Selection Committee would have the discretion to evolve a criteria of computer knowledge. This is a Panel/committee of experts and having deliberated and decided on an issue pertaining to the cut-off marks, prior to the advertisement, it would not be proper for the Courts to interfere.
10. In this case as well, the advertisement was made on 29.05.2023. The issue regarding the cut-off marks had

already been decided by the Director of Library Services and the question of scaling down the eligibility criteria fixed by the Director of Library Services, merely because the petitioner had been called for the third round and was not recommended thereafter, cannot be a ground to disrupt the entire process.

11. The petitioner's argument that he had been called for the third round, which necessarily implies that he had obtained the cut-off mark, is not justified. This was a mistake as submitted by Mr. Bandopadhyay by the authorities in calling the petitioner for the third round. The petitioner had admittedly obtained 2 marks out of 10 in the second round (computer knowledge) and hence was not qualified to be called for the third round.
12. The decision relied upon by Mr. Bandopadhyay of the Hon'ble Supreme Court of India reported in **(2024) 8 SCC 124** (*Mahesh Chand Bareth & Anr. Vs. State of Rajasthan & Ors.*) has held in no uncertain terms that parameters of qualifying marks not being in the public domain cannot be a ground for disrupting the entire process of appointment. The parameters set forth by the concerned authority has been followed uniformly without any discrepancy between any of the participating candidates. The petitioner had participated in the process and no prejudice has been caused to him, even it is assumed that the parameters of qualifying marks in second round were not in public domain.
13. It is also clear from the decision of the Hon'ble Supreme Court of India reported in **1993 Supp. (2) SCC 600** (*Jai Singh Dala & Ors. Vs. State of Haryana & Anr.*) that a mere communication from the authority would not create a right in favour of a person and to hold so, would mean that an authority has no right to rectify a mistake committed by it.

14. Merely because petitioner had been given an Admit Card to participate in third round which is clearly a mistake on the part of the authorities as the petitioner failed to obtain qualifying marks (2.5 out of 10) in the second round, he cannot be permitted to establish a right, which he does not have, based on a mistake committed by the authority.
15. It is not the petitioner's allegation that any person, who has obtained marks less than him, has been recommended nor that any person who has obtained marks below the cut-off marks in the second round, has been recommended or that such person's name figured in the merit list.
16. The decision of the Hon'ble Supreme Court of India relied upon by Mr. Bandopadhyay, is also clear inasmuch as it clearly holds that if the State has committed a mistake, it cannot be held that the State has no power to rectify or correct the same.
17. In this present case, the cut-off for the second round 2.5 out of 10 was already in place prior to the advertisement of 29.05.2023, on 02.05.2023 and the same was made known to all the authorities concerned. The case made out by the petitioner that he is entitled to be recommended in the merit list/panel is without justification and if permitted the same will give rise to a situation where every person, who has not qualified, would seek a right or a vested right merely on the basis of a mistake. It is clear that the authorities have acted within the parameters set forth by itself in the advertisement and any interpretation *de hors* the same is not acceptable.
18. On such consideration, I do not find any reason to entertain the instant writ-petition.
19. **WPA 28426 of 2024** is accordingly **dismissed** without

any order as to costs.

(Reetobroto Kumar Mitra, J.)