



2019:CHC-JP:2054

25-06.2019
Court No.3
Sh/08.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
WRIT APPELLATE JURISDICTION
APPELLATE SIDE**

W.P.A. 162 of 2019

Rajesh Das. Petitioner.

Vs.

The State of W.B. & Ors. . . . Respondents.

Mr. Saktibrata Majumdar.

. . . For the Petitioner.

Mr. Hirak Barman,

Mr. M. Rahaman.

. . . For the State.

Affidavit of service filed in Court today be kept with the record.

It has been submitted by the learned advocate appearing on behalf of the petitioner that all respondents have been duly served with the copy of the writ petition.

However no one appears on behalf of the respondents excepting the State respondent.

The petitioner claims to have passed the Madhyamik examination in the year 2012 and has also obtained training in computer from a recognized institution. It has been stated that the petitioner is an aspiring eligible candidate for the group "D" post in respect of which an advertisement has been published by the authorities of Netaji Subhas Mahavidyalaya on June 1, 2019.



In the instant writ petition the writ petitioner has prayed for issuance of a writ in the nature of Mandamus declaring that the notification dated August 25, 2017 is bad in law and should be struck down.

The main ground of challenge in the instant writ petition is based upon the assertion that if clause 5 of the notification dated August 25, 2017 excludes the group "D" post, then the knowledge in computer application cannot be said to be a desirable qualification and a candidate having computer knowledge should not get preference over other candidates. However, in clause 6 of the said notification it has been specifically provided that candidates having knowledge in computer application in MS Office will also get additional five marks as compared to other candidates.

It has been submitted by the learned advocate appearing on behalf of the petitioner that whether the authority is justified in one hand by excluding the knowledge of computer in relation to group "D" post and on the other hand providing for allotting five marks to the candidates offering their candidature having knowledge in computer.

Learned advocate appearing on behalf of the petitioner relies upon an order dated 10th January, 2019, passed by the Division Bench of this Hon'ble Court in MAT 1598 of 2018 with CAN 10241 of 2018 (Mithu Rani Das -Vs- State of West Bengal & Ors.) with MAT No. 1599 of 2018 with CAN 10242 of 2018 (Nayan Pramanik -Vs- State of West Bengal & Ors.) and submits that the issue involved in the instant writ petition is similar and identical with the issue involved in



MAT No.1598 of 2018 and MAT No. 1599 of 2018. He further submits that identical issue is involved in another appeal being MAT 714 of 2018 and according to the petitioner MAT 714 of 2018 is still pending before this Hon'ble Court.

It is further stated that the petitioner has moved three other writ petitions in respect of notifications published by several other Colleges pertaining to appointment in respect of group "D" post.

The order dated 15032019 passed in WP 3656 (W) of 2019 (Rajesh Das -vs- The State of West Bengal & Ors) has also been annexed to the instant writ petition.

Since the core issue involved in the initial appeal is whether the notification issued by the Government can withstand on the reasonableness as opposed to whimsical and arbitrary action and also that the point urged in the instant writ petition is the subject matter of consideration before the Division Bench of this Hon'ble Court, the petitioner is entitled to get interim protection.

Accordingly, the respondent authorities are restrained by an order of injunction from giving appointment to the concerned group "D" post pursuant to the notification dated 1st June, 2019, which has been annexed at page 61 of the instant writ petition and has been impugned in the instant writ petition. This order of injunction shall remain in force for a period of eight weeks from date or until further orders whichever is earlier



However, it will be open to the respondent authorities to complete the process of selection in the meantime.

The petitioner is directed to forthwith communicate this order to all the non appearing respondents.

The respondents are permitted to file affidavit-in-opposition to the writ petition within four weeks from date. Reply thereto, if any, be filed by the petitioner within two weeks thereafter.

Let this matter appear in the list before the next available Circuit Bench immediately after expiry of the time fixed for exchange of affidavits by the parties.

(HIRANMAY BHATTACHARYYA, J.)