

IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
KOLKATA - 700 091

Present :-

The Hon'ble Justice Soumitra Pal
CHAIRMAN

-AND-

The Hon'ble Mr.P.Ramesh Kumar
MEMBER(A)

J U D G E M E N T

-of-

Case No. OA- 293 of 2017

MINARUL ISLAM MONDALApplicant.

-Vs-

The State of West Bengal & others....Respondents

For the Applicant : Mr.I.Pal
Mrs.S.Pal (Das)
Advocates

For the State Respondents : Mr. G.P.Banerjee
Advocate

For the Public Service Commission : Mr.A.L.Basu
West Bengal : Mr.S.Bhattacharjee
Advocates

Judgement delivered on : 14.02.2020.

In this application, Minarul Islam Mondal , belonging to the OBC-A category, who had applied for the post of Principal in the Government Primary Teacher's Training Institute under the said

category, has prayed for several reliefs, the relevant portion of which is as under:

- a) *An order directing the respondents, their agents, subordinates and successors, particularly the respondent no-3 to issue recommendation order in favour of the applicant to the post of Principal in Government Teacher's Training Institute forthwith and allow the applicant to join his post forthwith.*
- b) *An order directing the respondents, their agents, subordinates and successors, particularly the respondent no-3 not to cancel the panel till the recommendation order is used by the respondent in favour of the applicant.*

After the matter was admitted directions were issued to file reply and rejoinder. Reply and rejoinder have been filed and are on record.

Mr.I.Pal, learned advocate appearing on behalf of the applicant, relying on the original application, submits that as the applicant had participated in the selection process and as there was one declared vacancy in the OBC-A category out of 11 total vacancies and as none was recommended for the said post in the said category the applicant should have been appointed.

Mr.A.L.Basu, learned advocate appearing on behalf of the Public Service Commission, West Bengal submits that the advertisement for recruitment was issued on 27th December, 2014 by the Public Service Commission, West Bengal. Prior to the said advertisement the full Commission in its meeting held on 19th September, 2014 had decided that the qualifying marks for the interview in the OBC-A category would be 38. As the applicant had secured 36 marks he could not be recommended for appointment. In

this regard our attention has been drawn to the minutes of the full Commission meeting, being Annexure-R to the application.

In reply, the learned advocate for the applicant submits that the Gazette Notification dated 20th August, 2013 issued by the School Education Department laying down the Rules for recruitment do not speak about the fixation of cut off marks for the post. Though it has been contended on behalf of the Commission that the Full Commission on 19th September, 2014 had decided to fix the cut off marks at 38 percent for the OBC-A category, however it is not reflected in the advertisement dated 27th December, 2014. As the advertisement lacks transparency, the state cannot contend that the applicant could not be appointed for failing to secure the cut off marks.

Heard learned advocates for the parties.

Admittedly, one post for Principal was reserved in the OBC-A category. Pursuant to the advertisement dated 27th December, 2014 the applicant had participated in the selection process. In the advertisement there was no mention about fixing of cut off marks in the interview though it has been submitted on behalf of the Commission that the Full Commission had taken a decision on 19th September, 2014 fixing cut off marks prior to the advertisement. The Rules for recruitment prescribed in the gazette notification dated 20th August, 2013 do not speak about fixation of cut off marks. As the Rules do not empower the Commission for fixing cut off marks and advertisement issued subsequent to the Full Commission meeting fixing the cut off marks does not mention about the fixation of cut off marks in the interview, the submission on behalf of the Commission cannot be accepted. Since the Rules do not empower the Commission to fix cut off marks in the interview, the fixation of cut off marks in the interview is illegal. That apart assuming the Commission was

empowered to fix cut off marks in the interview, as the resolution by the Full Commission fixing cut off marks is not reflected in the advertisement, the advertisement lacks transparency. Hence, as the applicant had appeared in the interview and had secured 36 marks, the contention of the applicant should be upheld. Therefore, for the reasons are aforesaid, the application is allowed by directing the Public Service Commission, West Bengal, the respondent no.2 to recommend the name of the applicant to the Secretary, School Education Department, the respondent no. 1 for the post of Principal in the Government Teacher's Training Institute under the OBC-A category within eight weeks from the date of presentation of a copy of this order.

(P. RAMESH KUMAR)
MEMBER (A)

(SOUMITRA PAL)
CHAIRMAN