
(2018) 06 CAL CK 0202
In the Calcutta High Court
Case No : FMA 3582 of 2013

Md. Munsur Ali

APPELLANT

Vs

State Bank Of India & Ors.

RESPONDENT

Date of Decision : 22-06-2018

Acts Referred:

Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 — Section 33

Citation : (2018) 06 CAL CK 0202

Hon'ble Judges : SANJIB BANERJEE, J; ABHIJIT GANGOPADHYAY, J

Bench : Division Bench

Advocate : Prasenjit Mukherjee, Subrata Kumar Sinha

Final Decision : Dismissed

Judgement

There is no merit in the appeal. The appellant, a person with visual impairment, invoked the provisions of The Persons with Disabilities (Equal

Opportunities, Protection of Rights and Full Participation) Act, 1995 to challenge the refusal by the State Bank of India to accommodate the appellant

in the post of a clerk. The case carried by the writ petitioner appellant to the court was that adequate number of posts had not been reserved by the

State Bank while conducting its all-India examination for recruitment of clerks. The appellant refers to Section 33 of the said Act of 1995 and the

requirement thereunder of 3% of government posts at the appointment level being reserved for persons with disabilities and such 3% being shared

equally between persons visually handicapped, persons with hearing impairment and persons with locomotor disabilities.

The petitioner participated in a general examination and was even called for the interview. The petitioner was, thereafter, informed by the State Bank

by an e-mail of December 6, 2008 that he could not make the cut. The petitioner sought certain information from the State Bank under the Right to

Information Act, 2005. The relevant information was furnished to the petitioner on January 20, 2009. The break-up of the number of candidates with

physical disability who had been selected in the Kolkata circle in course of the recruitment process for the relevant year was contained in such letter

of January 20, 2009: sixty-nine persons suffering from disabilities had been selected for being given appointment, fifty-six of them being

orthopaedically handicapped, nine of them having hearing impairment and four of them being visually handicapped.

In the light of the petitioner's assertion that the petitioner had been wrongfully excluded in the selection process, affidavits were called for by the

Single Bench. A detailed affidavit was filed by the State Bank indicating how the recruitment process was conducted and the basis for the reservation

of certain seats for persons with disabilities. According to the State Bank, unlike reservation for scheduled castes and scheduled tribes which is done

in the vertical manner, reservation for disabled persons has to be conducted in a horizontal manner. In other words, there may be disabled persons

belonging to the various categories, reserved or general.

There could be persons belonging to the scheduled caste or scheduled tribe with disabilities or there could be general category candidates with

disabilities. According to the State Bank, after making room for horizontal reservation and taking in several candidates with physical disabilities, others

with physical disabilities were sought to be given a chance by lowering the cut-off marks and pegging it at five marks below the marks that the least

qualified successful candidate obtained. It was on such basis that a figure of 96 was arrived at. Thus, 96 marks became the cut-off for any person

with disability to be eligible for selection.

The affidavit used by the State Bank indicated that the appellant herein had obtained only 89 marks and, thus, he was not ultimately selected though he

had been called for an interview. The Single Bench found that since considerable latitude was given to persons with disabilities

and there was no arbitrariness in the manner in which the State Bank conducted such recruitment process

or dealt with disabled candidates who had applied for the post, no relief could be

given to the writ petitioner.

The judgment and order appear to be unexceptionable, particularly since relevant considerations were taken into account and it was discovered that

the marks obtained in the selection process by the petitioner fell well short of what had been fixed as qualifying marks for persons with disabilities.

The writ court did not find any arbitrariness or highhandedness on the part of the respondent authorities. The petitioner has completely failed to

establish that there was any kind of unfair treatment that was meted out to the petitioner or that the recruitment or appointment process was faulty.

The advertisements inviting applications for the post of clerk referred to the reservation of posts for persons with disabilities. As would be evident

from the affidavit filed by the State Bank, 69 persons have been selected in the Kolkata circle area who are all afflicted by disabilities. FMA 3582 of

2013 is dismissed. There will be no order as to costs. Urgent certified website copies of this order, if applied for, be made available to the parties upon

compliance with the requisite formalities.