

(2010) 05 CAL CK 0068
In the Calcutta High Court
Case No : Writ Petition No. 26766 (W) of 2008

Santanu Das

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 19-05-2010

Acts Referred:

West Bengal College Service Commission Act, 1978 — Section 9
West Bengal College Service Commission Regulations — Regulation 9

Citation : (2010) 3 CALLT 169

Hon'ble Judges : I.P. Mukerji, J

Bench : Single Bench

Advocate : Uttam Majumder and Debasish Kundu, for the Appellant; K.J. Yusuf and Debasish Kar, Amitava Chowdhury, M. Chowdhury and S. Dey for Respondent No. 4 and Amal Kumar Mukhopadhyaya and S. Banerjee, for the Respondent

Judgement

I.P. Mukerji, J.—The writ petitioner is a very qualified person. He has a master's degree in commerce and philosophy. He has obtained a Ph. D. degree from Burdwan University as well.

2. Pursuant to an advertisement of the West Bengal College Service Commission for recruitment of lecturer in Commerce, the writ petitioner appeared for interview on 11th July, 2007. He had applied for recruitment in any college under the Kalyani University for the post of commerce lecturer.

3. The merit list was published on 18th January, 2008. He qualified. His grievance is that despite having qualified, his name was not recommended by the College Service Commission to the concerned college for appointment.

4. I have gone through the affidavit-in-opposition of the respondent Commission, particularly paragraphs 5 and 6 and their written submissions. They do not deny in this affidavit that the writ petitioner had qualified. Their defence is that the panel was published on 18th January, 2008 with validity of one year. In that period requisition for filling up the vacancy was not received by the Commission

from any college. One year has expired and, therefore, the panel has lapsed.

5. Suppose a particular college or colleges under the University do not want a particular candidate to be appointed as a lecturer, in spite of vacancy, they might not send a requisition for recommendation. They might refuse to send such requisition till the life of the panel including the name of a particular candidate, lapses. Therefore, a requisition can be sent by that college or those colleges so that a particular candidate whom they do not want is excluded. This is bound to cause injustice to that particular candidate.

6. Section 9 of the College Service Commission Act of 1978 provides as follows:

Notwithstanding anything contained in other law for the time being in force or in any contract custom or usage to the contrary, appointments to the posts of Teachers of a college shall be made on the recommendation of the Commission.

7. Regulation 9 of the West Bengal College Service Commission (manner of selection of person for appointment to the post of teacher including the principal) provides as follows:

9. Allotment of Candidate.

(1) On receipt of a requisition made by the Principal of a college for recommending the name of a suitable candidate for appointment in ? vacancy against an approved post, the Commission shall recommend only one name from the panel for appointment against the vacancy. A copy of the letter recommending the name shall be ? endorsed to the candidate concerned.

8. Therefore, on a proper interpretation of Regulation 9 of the West Bengal College Service Commission, the Commission should construe that regulation, so that the requisition of the college is examined, to ascertain when the vacancy arose in that particular college and when it ought to have been reasonably filled up. Having ascertained that it should recommend the names of those candidates who were there in the panel at the time the vacancy in the college ought to have been filled up.

9. Therefore, I direct the Chairman, College Service Commission to consider the case of the writ petitioner, in accordance with the interpretation made by this Court of Regulation 9 within a period of four weeks from the date of communication of this order. It is submitted by the writ petitioner that such vacant post is available in Bagula Sree Krishna College, District Nadia, which factor may also be considered. No hearing need be given to the writ petitioner but a reasoned decision should be passed which should be communicated to the writ petitioner within two weeks of taking of such decision.

10. The writ application is accordingly disposed of.

11. There will be no order as to cost.

12. Photocopy of this order duly countersigned by the Assistant Registrar

(Court), be given to the respective parties on usual undertaking.