

(2017) 01 TP CK 0014
In the Tripura High Court
Case No : W.P.(C) No. 320 of 2007

Smti. Aditi Chakraborty

APPELLANT

Vs

State of Tripura

RESPONDENT

Date of Decision : 24-01-2017

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (2017) LIC 810

Hon'ble Judges : Mr. S.C. Das, J.

Bench : Single Bench

Advocate : Mr. S.M. Chakraborty, Senior Advocate Ms. P. Chakraborty, Advocate, for the Petitioner; Mr. B.C. Das, Advocate General Mrs. A.S. Lodh, Addl. G.A, for the Respondent Nos. 1 and 2; Mr. Samarjit Bhattacharjee, Advocate, for the Respondent No. 6; None, for the Respondent Nos. 3, 4, 5 and 7

Final Decision : Disposed Off

Judgement

Mr. S.C. Das, J.(Oral)—By filing this writ petition the petitioner prayed for directing the respondents to appoint her as a Post Graduate Teacher(Bengali) with all seniority and financial benefits with effect from the date the respondent Nos.3 to 7 were appointed as Post Graduate Teacher.

2. Heard learned senior counsel, Mr. S.M. Chakraborty, assisted by learned counsel, Ms. P. Chakraborty for the petitioner and learned Advocate General, Mr. B.C. Das, assisted by learned counsel, Mrs. A.S. Lodh for respondent Nos.1 and 2 and learned counsel, Mr. Samarjit Bhattacharjee for respondent No.6. No representation on behalf of respondent Nos.3, 4, 5 and 7.

3. It is an admitted position that the State respondents initiated a recruitment process for appointment of Post Graduate Teachers in the Government Schools under the Directorate of School Education. There was an Employment Policy in force at that point of time vide Policy No.F.1(4)-GA(P&T)/99 dated 30.08.2003 (Annexure-R/1 to the affidavit-in-response of respondent Nos.1 and 2 filed on 08.06.2016). It is also an admitted position that the petitioner also applied for

appointment as a Post Graduate Teacher in Bengali subject.

4. The case of the petitioner is that she was eligible for appointment as a Post Graduate Teacher, whereas her case was not considered though the cases of the respondent Nos.3 to 7 were considered and that she was better placed than that of the respondents for selection and appointment.

5. The petitioner made an application to the SPIO of the office of the Directorate of School Education for supplying her the following information:

"(i) Name and address of all the candidates recently recruited in the P.G.T. for Bengali subject along with the year of passing the master degree, date of birth and monthly income of each candidate and the name of authority certifying the monthly income.

(ii) Supply of copy of the Govt. policy for selection for the post of P.G.T.

(iii) Reason for not considering my name for the said post though I faced the interview for this purpose successfully.

(iv) Criteria of the Govt. policy which I failed to fulfil for getting selection.

(v) Whether all the selected candidate could fulfil all the criteria of the Govt. policy."

6. In response to that letter of the petitioner, the SPIO made the following communication:

"To

The Secretary

Tripura Information commission

P.N. Complex, Agartala.

Subject:- Representation in reply to summon NO.632- 34 dated.27.06.2007 regarding Appeal No.04 of 2007-08 of Smt Aditi Chakraborty, C/O. Mira vila, Bhattapukur, A.D. Nagar. Agartala.

Sir,

I would like to inform you that copies of following documents as wanted by Smt. Aditi Chakraborty were not available with RTI Cell in May, 2007 for supply to the appellant

1. Name and address of all the candidates recruited to the post of PGT.
2. Copy of the Govt policy for selection for the recruitment.
3. Criteria of the Govt policy.

Custodian of the above documents was the High power selection committee.

The Director of school Education initiated a file for decision of the higher authority and Law Department may be supplied to public. The Director verbally instructed to the SPIO not to supply and copy until the decision received. So, the SPIO did not supply and documents to the appellant.

The file came back to the Director with decision of Law Department that copy of those documents may be given to the public on demand with deposit of necessary @Rs.2/- per coy. But the appellant did not deposit any fee for this purpose.

At present copies of all the basic documents of appointment of PGT are available in RTI Cell.

In this connection, I am to state that I have examined the mark sheets of interview board for PGT(Bengali) and found that Interview board of Education Recreation club, U.K. Academy, Agartala awarded the following gradation to Smt Aditi Chakraborty, M.A(Bengali):-

Name of the candidate.

Qualification % of marks

Grade Awarded Merit- Cum- Seniority

Need

Smt Aditi Chakraborty W/O. Supriya Chakraborty Bhattapukur, Agartala.

Madhya-1986- - 44.6%

H.S -1988- 49%

B.A(H)-1991? 40%

M.A -1994 43.9%

A

C

Her husband is a Govt employee. So, she was given "c" in need. She would be eligible for offer of appointment if "A" grade was given in each column by the interview board.

This is for favour of your kind information.

Yours Faithfully

Sd/- eligible

(P.C. Debbarma)

SPIO

Public Authority

Directorate of School Education Tripura."

7. From the above, it is made clear that the petitioner was not selected for appointment as a Post Graduate Teacher in Bengali on the ground that in "Need" category she got "C".

8. The petitioner made representation against her nonselection and thereafter collected further information in respect of respondent Nos.3 to 7 from the Directorate of School Education through SPIO and SPIO by letter dated 14.08.2007(Annexure-6 to the writ petition) furnished the following information in respect of respondent Nos.3 to 7.

"FORM NO?2

Information of acceptance

(See Rule 5)

Office of the Directorate of School Education.

NO.F.18(1-123)SE-E/(RTI)/07 Dated, Agartala, the 14/8/2007

To

Smt Aditi Chakraborty

W/O. Supriya Chakraborty

Bhattapukur, A.D. Nagar,

Agartala, Tripura(west)

Ref:- Your application dated 16-7-2007-seeking information.

Dear Madam,

With reference to your above-cited application I would inform you that the following information are ready to be supplied to you.

4.(a) List of candidates who have been given offer of appointment to the post of Post Graduate Teachers in the subject Bengali along with their address, marks, year of passing and monthly income.

(b) and (d) Copy of the Revised employment policy vide memo No. F.1(4)GA(P&T)/99 dated 30.8.99

(c) The State level selection committee has not selected your name.

(e) Offer of appointment has been issued as per recommendation of the State Level Selection Committee.

5.1-4. The following candidates got offer of appointment for PGT in different subject out of the eight names given by you. All information pertaining to the above candidates is given below:-

Sl.No.

Name of the candidates

Name of Husband/Father

Whether Govt. Employee

Monthly income

Grade marks

Seniority cum Merit

Need

1

Smt. Sampta Bhattacharjee

W/O. Jayanta Biswas

Yes

Rs.11,277/-

A

C

2

Smt. Manika Saha

W/O. Koushik Roy

Yes

Rs.16,002/-

A

C

3

Smt Pampa Paul

W/O. Subash Ch. Debnath

Yes

Rs.11,058/-

A

B

4

Smt Shilpi Das

D/O.Surjya Mohan Das

Yes

Rs.13,328/-

B

B

5

Smt Aparna Das Choudhury

W/O. Sankar Saha

Yes

Yes Rs.9,556/-

A

B

You are requested to deposit an additional fee of Rs.74/-(Rupees Seventy four) only within seven days of the receipt of this letter and take delivery of the information as sought for by you.

(i) 37 Pages A4 Size X Rs.2/-=Rs.74/- only.

If you have any grievance about the above mentioned amount of fee, you have a right to file an appeal against the amount charged or the force of access provided within a period of thirty days from the date of receipt of this letter.

The full particulars of the appellate authority to which you can an appeal are given below:-

First Appellate Authority

Directorate of School Education

Yours faithfully

Sd/- illegible

(A.C. Das)

SPIO

Public Authority

Directorate of school education"

9. The above information given by the SPIO of the office of the Directorate of School Education clearly reveals that none of the respondent Nos.3 to 7 got "A"

in the "Need" category. Further, it appears that respondent No.6 even was in seniority-cum-merit, got "B". This document further shows that the husbands/father of respondent Nos.3 to 7 were all Government employees and were getting more than what the husband of the petitioner was getting as salary/wage.

The petitioner contended that she has been discriminated and therefore she prayed for a direction to the respondents for her appointment.

10. Respondent Nos.1 and 2 by filing counter affidavit contended that the petitioner cannot compare her case with the candidates of other categories and she can only make a comparison with the candidates of Bengali category. The selection was made perfectly following the guidelines and the Employment Policy and the petitioner has no case to get a direction from this Court.

11. Other private respondents submitted counter affidavit contending that they were appointed through proper selection process and so their appointment cannot be disturbed.

12. It is submitted by learned senior counsel, Mr. Chakraborty that it is a clear case of discriminatory treatment meted to the petitioner on whimsical ground. Annexure-6 i.e. the information submitted by SPIO of the Directorate of School Education clearly reveals that respondent Nos.3 to 7 were all Post Graduate Teachers appointed in different subject and their husbands/father were also employees and were drawing much more salary/wage than that of the husband of the petitioner.

It is fairly submitted by Mr. Chakraborty and learned Advocate General that out of respondent Nos.3 to 7, respondent No.7 was appointed in Bengali subject and other respondents were not in Bengali subject. But Annexure-6 shows that all were appointed in Bengali subject.

13. Be that as it may, it appears that the reason for not selecting the petitioner does not seem to be fair. If the petitioner was not selected for the reason that her husband was having a source of income of Rs.3,250/- per month, then how at least respondent No.7 in the same subject was selected though her husband was having a monthly income of Rs.9,556/-.

14. Learned Advocate General submitted that the Employment Policy itself has been struck down by the Division Bench of this Court in the case of Tanmoy Nath v. State of Tripura and Ors.[WP(C) No.51 of 2014 and other connected writ petitions] and that Employment Policy is no longer in force. However, on the point of discrimination learned Advocate General fairly submitted that so far as the document is concerned it shows that the respondent No.7 is similarly placed as that of the petitioner.

15. The petitioner did not challenge the employment policy. The simple case of the petitioner is that she is discriminated and that discrimination is found to be apparent and clear from the record placed before this Court. This Court is to see and ensure that justice is done to every citizen according to law.

The petitioner and respondent No.7 are similarly situated. Husband of respondent No.7 was earning three times more than that of the husband of the petitioner. If respondent No.7 could be appointed as a Post Graduate Teacher, then the petitioner also ought to have been appointed as a Post Graduate Teacher. The State does not appear to have acted fairly and so I think it is a fit case to give direction to the State respondents to act fairly.

16. The appointment has not been given to the petitioner though she was entitled to get it in view of the fact that similarly situated other persons have been appointed. So the respondents are directed to redress the grievance of the petitioner within forty five days from today suitably, and if it is not redressed to the satisfaction of the petitioner, the petitioner will be at liberty to approach this Court immediately after the elapse of forty five days.

17. With this direction, this writ petition is disposed of.

18. A copy of this judgment be supplied to learned Addl. G.A., Mrs. Lodh for communicating the decision of this Court to the concerned respondents.