
(2009) 04 CAL CK 0012

Calcutta High Court

Case No: Writ Petition No. 6262 (W) of 2009

Smt. Rita Dey

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision: April 1, 2009

Citation: 113 CWN 668

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Arindam Mandal, for the Appellant; Sajal Chakraborty for the State, for the Respondent

Final Decision: Dismissed

Judgement

Jayanta Kumar Biswas, J.

The petitioner in this writ petition dated March 30, 2009 is questioning the selection of the sixth respondent, Santanu Mall, for appointment as an MR dealer for the village Rudrapur, police station Domjur S.D. in the district Howrah (S).

2. Notice dated December 19, 2003, at p.20, inviting application from eligible candidates was published by the Sub-divisional Controller (F&S), Howrah (S). The second paragraph of the notice provides as follows:

The applicant must be an Indian citizen, financially solvent and must be in lawful possession of one suitable godown/shop. He/She should be capable of maintaining the statutory books of accounts. His/Her solvency is required to be proved by documentary evidence.

Both the petitioner and Santanu participated in the process as candidates. Santanu was selected, and I am told that licence appointing him was issued on February 16, 2009.

3. According to counsel for the petitioner Santanu's selection and appointment should be cancelled on these grounds: (i) Santanu is not capable of maintaining the

statutory books of accounts, since, as will appear from the school leaving certificate dated February 26, 2009, at p.52, he has read only upto class VII; (ii) when on the basis of a mass representation the district magistrate by his letter dated February 17/18, 2009, at p.37, requested the District Controller (F&S), Howrah not to fill the vacancy and to look into the matter, there was no scope to appoint Santanu and (iii) the petitioner, satisfying all the conditions and showing a very suitable godown making representation against her non-selection, was entitled to get a reasoned decision disclosing why she was not selected. I do not find any merit in the grounds.

4. Even if it is accepted that Santanu's school leaving certificate is dated February 26, 2009, and it was submitted by him to the sub-divisional controller in connection with his appointment that was given on February 16, 2009, I do not see how it can affect his selection for appointment. According to counsel for the petitioner, a person read only upto class VII is not capable of maintaining any statutory books of accounts. I am unable to accept the argument. For acquiring capability to maintain statutory books of accounts, it is not necessary that one must have sufficient educational qualification.

5. There is no reason to proceed on the basis that Santanu, read only up to class VII, is not capable of maintaining any statutory books of accounts. There is nothing to show that the selection committee found him incapable of maintaining any statutory books of accounts. Counsel has pointed out that in the school leaving certificate it was mentioned that Santanu had a habit of stealing gift. I am unable to see how this is relevant, even if it is accepted that the certificate says that Santanu had a habit of stealing gift. It was for the selection committee to satisfy itself about Santanu's candidature.

6. The district magistrate, as it appears from his letter, was of the view that the matter of appointment should be looked into by the district controller. This cannot be a ground to say that Santanu's selection for appointment is liable to be cancelled. If after making necessary investigation the authorities reach a conclusion that for some reason or other Santanu's selection or appointment is liable to be cancelled, they are always at liberty to take appropriate steps for the purpose. But when the petitioner questions his selection and appointment, she has to justify her challenge by establishing how the selection and appointment are vitiated. The step taken by the district magistrate has nothing to do insofar as her case is concerned.

7. I am unable to accept the proposition that once the petitioner made a representation against her non-selection, she acquired a right to get a reasoned decision from the authority. Right to get a reasoned decision can be claimed only when it is conferred by any provision of law. In the case of selection through competitive process, a participating candidate making representation against non-selection is not entitled to get a reasoned decision.

8. In view of the provisions of the Right to Information Act, 2005 such a candidate may be entitled to exercise right to get necessary information concerning the selection. It is the case of the petitioner that she exercised her right to get necessary information under provisions of this Act. She could not indicate any illegality in the selection process. Only because in her own assessment she was a better candidate she is not entitled to say that the selection committee ought to have selected her. It was for the selection committee to decide who was the best candidate. According to it Santanu was the best.

9. For these reasons, I find no merit in the writ petition. It is accordingly dismissed. There shall be no order for costs.

10. Urgent certified Xerox of this order, if applied for, shall be supplied to the parties within three days from the date of receipt of the file by the section concerned.