

(1999) 04 CAL CK 0060

Calcutta High Court

Case No: A.S.T. No. 808 of 1999

Prayg Chandra Hazra

APPELLANT

Vs

State of West Bengal

RESPONDENT

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**Date of Decision:** April 16, 1999**Citation:** (1999) 2 ILR (Cal) 572**Hon'ble Judges:** Amitava Lata, J**Bench:** Single Bench**Advocate:** Amal Baran Chatterjee and Anadi Banerjee, for the Appellant; Swapan Kumar Majumdar, for the Respondent

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### Judgement

Amitava Lata, J.

This is an application on behalf of the Petitioners basically for the purpose of forwarding their names for the purpose of forthcoming interview. According to them, they have worked under non-formal education scheme prepared by Union of India and as a natural consequence their names were converted in the Employment Exchange from the category of Unemployed candidates to employed candidates.

2. Now the scheme has withdrawn. The persons who were working become age barred. As a result whereof they are not getting the regular services of primary teachers although an interview was called on by a memo No. 0014/(9193) dated March 31, 1999 after a long period.

3. Mr. Chatterjee, learned Counsel on behalf of the Petitioners relied upon, a judgment [Dr. Surinder Singh Jamwal and another Vs. State of Jammu and Kashmir and others](#), and contended that almost in a similar circumstances a direction was given to the State Government to notify the vacancy to the Public Service Commission within a particular period. By notification so made, it would be open to the parties to apply for regular recruitment. It would be for the Public Service Commission to consider the respective claims of the candidates who have applied for and to make necessary selection according to rules. On selection so processed

and recommendation so made to the State Government, the State Government will make appointments as per rules within a period of two months from the date of receipt of list of the selected candidates from the Public Service Commission. The Public Service Commission is directed to complete the process of the selection within three months from the date of receipt of requisition. The State Government after receipt of the lists shall make the necessary appointments in accordance with law. Till then the parties will continue only on ad hoc basis till the regularly selected candidates are appointed.

4. It is obvious that the parties have become barred by age for the direct recruitment. It would, therefore, be necessary that the State Government would relax the necessary age qualification so as to enable them to apply for and seek recruitment through Public Service Commission.

5. On the other hand, Mr. Mazumdar, Learned Counsel on behalf of Bankura Primary Education Council contended that since the scheme is withdrawn the parties have no right. He relied upon an unreported judgment of the Supreme Court State of West Bengal and Ors. v. Monirujjaman Mullick and Ors. Civil Appeal No. 4195 of 1994 wherein almost in a similar circumstances in respect of persons under non-formal educational centres pursuant to the scheme, the Supreme Court held that non-formal educational centres cannot be equated with the primary schools which are regularly run by the Education Department of the State Government. Apart from the basic qualitative differences between the two institutions even the nature of work of the non formal instructors and the primary school teachers is not identical. The method of appointment, the source of recruitment, method of teaching, hours of teaching and the mode of payment are entirely different. In the facts and circumstances of this case the High Court fall into patent error in applying the principle of "equal pay for equal work."

6. According to me, two points are very much relevant for the purpose of deciding the issue i.e. (a) authority concerned who will sponsor the names; (b) whether the Petitioners are entitled to have their services directly or not.

7. It appears to me that the Petitioners are only entitled to get interview since it is opened after a long period. But it is rightly pointed out by the learned Counsel for the Respondents that without sponsoring the names by the Employment Exchange they cannot take part in the interview.

8. Therefore, I direct the concerned Employment-Exchange, Bankura to identify the names accordingly and make a list of the names of the Petitioners and forward the same to the Council for the purpose of their consideration. In that case they will be entitled for the interview subject to other qualifications pertaining to the advertisement as per interview but of course with relaxation of age as prescribed by the Supreme Court in the cited judgment. The Petitioners are apprehensive about the circulated memo as aforesaid in respect of the interview by stating that if they

lose opportunity in that case they maynot get such opportunity in the near future on the above yardstick given by this Court then in that case they can call for separate interview. Under such circumstances, if the Council found that the claim is justified a separate provision will be made for taking interview in respect of such candidates so that there cannot be any hindrance or difficulties in getting interview being way of respective service.

9. Since a direction is given, accordingly the concerned Employment Exchange Officer will complete the course of action within two weeks from the date of communication of the order and the concerned council will finalise the interview within four weeks from the date of such communication by the Employment Exchange Officer.

10. The writ petition is, thus, disposed of without any order as to costs.