

16.02.2023
Item Nos. 4 to 8.
Crt.No.11
KB

MAT 250 of 2023
with
IA No. CAN 1 of 2023
with
IA No. CAN 2 of 2023
with
IA No. CAN 3 of 2023
Achinta Kumar Mondal & Ors.
And
Laxmi Tunga and Ors.
-vs-
The State of West Bengal & Ors.
with
MAT 274 of 2023
with
IA No. CAN 1 of 2023
Achinta Kumar Mondal and Ors.
-vs-
Laxmi Tunga and Ors.
with
MAT 259 of 2023
with
IA No. CAN 1 of 2023
with
IA No. CAN 2 of 2023
Samiran Maity and Ors.
-vs-
Laxmi Tunga and Ors.
And
The State of West Bengal & Ors.
with
MAT 284 of 2023
Arnab Paul Chowdhury and Ors.
-vs-
Laxmi Tunga and Ors.
with
MAT 276 of 2023
Susovan Satpathi and Ors.
-vs-
Laxmi Tunga and Ors.
And
The State of West Bengal & Ors.

Mr. Partha Sarathi Deb Barman
Mr. Raja Adhikari
Mr. Yudhisthir Maity
Mr. Shahajan Alam
Mr. M. N. Chowdhury

Mr. Margub Salik
Ms. Debangana Nayak
..... For the appellant in MAT 250
of 2023 & MAT 274 of 2023.

Mr. Biswaroop Bhattacharya
Ms. Reshmi Ghosh
Mr. Soumya Sankar Chini
..... for the appellant in MAT 259 of 2023.

Mr. Ashis Kumar Chowdhury
Mr. Rajib Ghosh
... For the appellant in MAT 284 of 2023

Mr. Mainak Bose
Mrs. Devyani Ashra
Mr. Utkarsh Kaushik
... For the appellants in MAT 276 of 2023.

Mr. Bikash Ranjan Bhattacharya
Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Payel Shome
Ms. Mousumi Hazra
... For the Respondents in MAT 250 of
2023, MAT 274 of 2023 & MAT 259 of 2023.

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
..... For the WBCSSC in all the appeals.

Mr. Billwadal Bhattacharyya, Ld. DSGI
Mr. Arijit Mojumder
... For the CBI in all the appeals.

Ms. Koyeli Bhattacharyya
..... For the W.B.B.S.E in all the appeals.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Under challenge in these appeals are Orders dated 9th February, 2023 and 10th February, 2023 in WPA 18585 of 2021.

The appellants in all the five analogous appeals represented by their Learned Counsel submit that the

Hon'ble Single Bench has passed drastic orders without granting the necessary parties, i.e. the appellants, the opportunity of being heard. It is submitted that the impugned orders of the Hon'ble Single Bench have led the West Bengal Central School Service Commission (for short, the Commission) to notify the cancellation of appointments of the appellants, who were serving in Group-'D' Posts selected in the 2016 Recruitment Process.

It is also submitted that in terms of the West Bengal School Service Commission (Selection of Persons for Appointment to the Post of Non-Teaching Staff) Rules 2009 (for short, 2009 Rules), there is no statutory basis for penalising the appellants. It is pointed out that not only the appellants stand to lose their jobs but they have been also directed to refund their salaries as well as face the prospect of being debarred from applying for future gainful employment.

Per Contra, Learned Counsel for the Respondents/the Writ Petitioners and the Commission submit that the orders impugned dated 9th February, 2023 and 10th February, 2023 are the culmination of a series of orders by which the Hon'ble Single Bench adjudicated the issues. It is submitted that at no point of time the appellants had approached the Hon'ble Single Bench to demonstrate that the OMR Sheets which have

been compared on the basis of the electronic evidence supplied by the CBI, are not their OMR Sheets. It is therefore submitted that the Hon'ble Single Bench has correctly directed cancellation of the appointments of 1911 candidates whose OMR sheets have been found to be manipulated and also directed that the resultant vacancies be filled up by appointing *bona fide* candidates from the Waiting List.

Heard the parties in detail.

Closely examined the materials placed.

At this stage, considering the principles of balance of convenience and double jeopardy, there shall be only a stay of the portion of the Order directing the appellants to refund salaries from the date of their appointments as stated in Paragraph 19 of the Order dated 10th February, 2023, until further orders.

List the appeals for further hearing on **3rd March, 2023** under the heading "**Mentioned Matter**" at **10.30 A.M.**

All parties to act in terms of a copy of the order downloaded from the official website of this Court.

(Supratim Bhattacharya, J.) (Subrata Talukdar, J.)