

13.10.2020.
Item No. 35

W.P.S.T. 72 of 2020
With
I.A. No. CAN 1 of 2020

Rajkumar Mondal
Vs.
The State of West Bengal and others.

(Through Video Conference)

Mr. Anindya Lahiri,
Mr. Samrat Dey Paul
... for the petitioner.
Mr. Sirsanya Bandyopadhyay,
Mr. Subhendu Sengupta.
... for the State.

The petitioner undertakes to affirm and stamp the petition as per the Rules within one month of resumption of the normal functioning of the Court. The petition is taken up through video conference on the basis of such undertaking.

Accordingly, the application being IA No. CAN 1 of 2020 is disposed of.

The writ petition is directed against an order passed by the Tribunal on 10th August, 2020, by which the prayer of the petitioner for condonation of age bar was rejected relying upon a judgement dated 23rd July, 2018 passed in WPST 53 of 2018 (The Chairman, Public Service Commission, West Bengal vs. Palash Kumar Samanta & Ors.).

Mr. Aninda Lahiri, learned Counsel, appearing on behalf of the petitioner submits that the same Bench earlier in a similar matter permitted the applicants in such proceedings to participate in the selection process without creating any equity in their favour and subject to the result of the Original Application. He further submits that the Division

Bench judgement in Palash Kumar Samanta (supra) has completely ignored the larger Bench decision of our Court in Gobinda Chandra Mondal vs. Principal, Rabindra Mahavidyalaya reported in 2013 (1) CHN (Cal) 9. He also draws our attention to paragraph 25 of the said judgement, which reads thus:

“If the appointment is made without undertaking selection procedure under Rule on ad hoc or temporary basis engaging the candidate having requisite qualification namely age and education at the time of appointment against substantive the candidates in those cases shall be allowed to compete and/or participate in the selection process along with other eligible candidate at the time of regular recruitment process condoning the age as they have acquired right to be considered. Of course, their services must be continuous and without any brake in the vacancy of substantive post at the time when the regularisation is demanded and selection process undertaken. But in case where the appointees are not qualified at all and they have been engaged for rendering services as an ad hoc basis or temporary measure their case cannot be considered under any circumstances either against substantive post or the post yet to be considered.”

In view of the fact that the post held by the petitioner is different from the post advertised for recruitment; as we find that the applicant was working as Data Entry Operator on contractual basis in Garden Reach S. G. Hospital and it is not connected with the post of Assistant Superintendent (Non Medical) Grade – II, which has been advertised

we are of the view that the impugned order of the Tribunal need not be interfered with.

With the above findings the writ application is disposed of.

There shall be no order as to costs.

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(Soumen Sen, J.)

(Saugata Bhattacharyya, J.)