

04 16.12.2020

Ct-24

WPA 7332 of 2020

Koushik Mukherjee

Vs.

The State of West Bengal & Ors.

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Mr. Indradeep Pal
Mrs. Saugata Pal (Das)
... For the Petitioner

Mr. Biswabrata Basu Mallick
Mr. Sanjib Das
... For the State

Mr. Soumya Banerjee
... Respondent nos. 4 & 5

Supplementary affidavit filed by the petitioner is taken on record.

The prayer of the petitioner for being appointed on compassionate ground has been turned down by the Municipality by an order dated 22nd September, 2020. The Chairperson, Board of Administrators of the Municipality intimated the petitioner that in view of the settled decision of the Hon'ble High Court in the matter of Gobinda Hazra Vs. State of West Bengal & Ors., reported in (2019)2 WBLR 122 his prayer for compassionate appointment cannot be accepted at this stage.

The learned advocate for the petitioner has relied upon a judgment dated 30th September, 2019 passed by the Hon'ble Division Bench in the matter of MAT 859 of 2018 with CAN 6137 of 2018 (Debabrata Tiwari vs State of West Bengal) along with other appeals, wherefrom it appears that the matter of Gobinda Hazra (supra) was taken into consideration by the Court.

In the said appeal, the Hon'ble Division Bench directed the Director of Local Bodies to

reconsider the Memo of the Burdwan Municipality which sought for approval of the recommended names for being appointed under compassionate ground. The Court further directed the Municipal authority to consider the cases for giving appointment on compassionate ground in the light of the observation made in the judgment.

In the said appeal the Court took into consideration the issue as to whether there is any scheme on compassionate ground for the employees of the Municipality.

The Court was of the opinion that on a conjoint reading of 301-Emp, 302-Emp and 303-Emp it is clear that the same is a scheme for compassionate appointment and the said scheme was applicable in respect of posts in all establishments covered by the 1999 Act, including the Local Bodies like municipalities.

The learned advocate representing the State respondents submits that an SLP has been preferred against the order passed by the Hon'ble Division Bench. The learned counsel, however, is not aware whether any order has been passed or not in the said SLP.

It is settled principle of law that until and unless an order is set aside or modified by the superior forum, the said order remains in force and is binding in nature.

In view of the above, the instant writ petition is disposed of by directing the Kamarhati Municipality through its Administrator to reconsider the prayer of the petitioner for being appointed on compassionate ground strictly in accordance with the direction passed by the Hon'ble Division Bench in the matter of Debabrata Tiwari (Supra) and in accordance with the relevant circulars, guidelines and scheme

within a period of eight weeks from the date of communication of a copy of this order.

The petitioner shall forward a copy of the judgment passed by the Hon'ble Division Bench in the matter of Debabrata Tiwari (supra) referred to hereinabove at the time of communication of a copy of this order to the respondent no. 3 for quick reference.

WPA 7332 of 2020 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)

