

OD – 3

ORDER SHEET
WPO 170 OF 2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

GOPAL CHAKRABORTY
Versus
THE STATE OF WEST BENGAL AND 20 OTHERS

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 15TH December, 2020.

Appearance :
Mr. Dipankar Pal, Adv.
Mrs. Kakali Naskar, Adv.
For the petitioner

Ms. Deblina Chattaraj, Adv.
For the respondent

The Court : The petitioner challenges the action of the respondent authorities in conducting the promotion to fill up the posts of Record Keeper from Peon. The notice inviting application for promotion was published under Reference No. MD/ Promotion/170 dated 25th January, 2016.

The petitioner along with six others objected before the authority by filing a representation dated 3rd February, 2016. The petitioner thereafter approached this Court by filing a writ petition being WP No.194 of 2016. In the said writ petition, by an order dated 16th March, 2016, the Court directed that the promotion process may continue but one post to be keep vacant till the disposal of the petition.

The Company thereafter issued a further notification in November, 2016 in continuation of the earlier notice inviting application for promotion.

The petitioner has filed the instant application in February, 2020 and prays for an order of cancelling the promotion process.

The learned Advocate representing the respondents relies upon an unreported order dated 2nd January, 2020 passed in APO 384 of 2018 in WP NP.86 of 2018 whereby the notice inviting application for promotion dated 25th January, 2016 was taken into consideration by the Hon'ble Division Bench. The Hon'ble Appeal Court was pleased to dismiss the appeal by holding that the appellant did not have any locus standi to question the promotion process as he did not participate in the promotion process and he failed to demonstrate as to how he would be prejudiced or likely to suffer by the perceived illegal promotion.

It appears that the Appeal Court dismissed the appeal in respect of one Subhasish Roychowdhury. The said Subhasish Roychowdhury was also a signatory to the objection made by the petitioner and other employees on 3rd February, 2016.

The petitioner submits that he filed the present application only because there was a direction of the Court in the earlier pending writ petition (WP No. 194 of 2016) to keep one post vacant till the disposal of the petition.

On perusal of the order dated 2nd January, 2020 passed by the Hon'ble Division Bench it appears that the conducting Counsel for

both the parties are the same. The Counsel was very much aware of the fact that the issue regarding promotion was set at rest by the order of the Hon'ble Division Bench passed on 2nd January, 2020 in the matter of Subhasish Roychowdhury and there is hardly any scope for re-opening or looking into the matter any further. In the event any of the parties are aggrieved by the order of the Hon'ble Division Bench, the forum for appeal is always open.

The writ petitioner under any stretch of imagination could not have filed the instant application re-agitating the issue which were set at rest by the Hon'ble Division Bench.

In view of the order passed by the Hon'ble Division Bench on 2nd January, 2020 the pending writ petition of the petitioner being WP No.194 of 2016 also becomes infructuous. The same is treated as on day's list and is hereby dismissed.

The instant writ application also fails as both the parties that is Gopal Chakraborty and Subhasish Roychowdhury stand on the self-same footing and challenges the same notice for promotion on self-same grounds.

In view of the above, WPO 170 of 2020 fails and is hereby dismissed. WP No.194 of 2016 is dismissed as infructuous.

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

(AMRITA SINHA, J.)