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PA(SM)
11.1.2021

WPST 2 of 2020
(Through Video Conference)
Ujjwal Kumar Das & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Asim Hati and Mrs. Nibedita Barui,
... Advocates for the petitioners present in Court

Mr. Joytosh Majumder,
... G.P. for the respondents through V.C.

Mr. Raja Saha and Mrs. Kakali Samajpati
.... Advocates for the State present in Court

The petitioners challenged the order dated 7.8.2019 passed by the West Bengal Administrative Tribunal, Kolkata (for short 'the Tribunal') in O.A. No.292 of 2016. Vide impugned order the Original Application filed by the petitioners was dismissed with cost of ₹10,000/-.

From a perusal of the record and the argument addressed by the learned Counsel for the petitioners it is evident that the Original Application was filed in the year 2016 seeking a direction to the respondents to grant the petitioners notional benefit of service with effect from September 3, 1998 when Arabinda Sarkar was appointed on the post of Lower Division Clerk (for short, 'LDC'). It was on the basis that the petitioners were also the candidates in the same selection process, however, they

having been appointed later, without any fault on their part, should have been granted the benefit from the same date.

In the process of selection to the post of LDC in the district level office in Land Reforms Administration the petitioners were successful in the written test. However, they failed to qualify the typing test. Aggrieved against their rejection they filed O.A. 815 of 1997 before the Tribunal. The same was dismissed vide order dated August 8, 2001. Feeling aggrieved, the petitioners challenged the order passed by the Tribunal by filing W.P.S.T. 1132 of 2001, which was disposed of vide order dated 19th July, 2005. Division Bench of this Court opined that there is no merit in the contention raised by the petitioners to the extent that they should be appointed on the post of LDC having failed in the typing test. However, considering certain past precedents direction was issued for accommodation on the post of Amin. It was in pursuance of the aforesaid direction that the claim of the petitioners was considered. They were offered appointment on September 26, 2006 and joined on the post as such on September 28, 2006.

There is nothing on record to suggest that the petitioners ever raised any issue at the time of their joining to claim that they should be treated to have been appointed from the date when certain other candidates

were appointed in the process of selection initiated in the year 1998. Without raising any issue they joined on the post of Amin, worked thereon for a period of about a decade, before raising the issue by filing the application before the Tribunal claiming notional benefits prior to the date of their actual appointment.

In our opinion, the application filed by the petitioners has rightly been dismissed by the Tribunal with cost. In addition to the reasons assigned by the Tribunal for dismissal of the application, in our view, even otherwise the claim made was highly belated as the issue was raised more than a decade after appointment of the petitioners. Moreover, the petitioners were claiming the benefit from the date when L.D.C.s were appointed, whereas the petitioners had failed in the process of selection to that post as they could not qualify the typing test. It was only on a compassionate view taken by this Court that a direction was issued for consideration of the cases of the petitioners for appointment on the post of Amin as there were certain precedents for the same. Hence, the petitioners were appointed on the post of Amin.

Though for filing the present petition in this Court raising frivolous issues and challenging well-reasoned order passed by the Tribunal, the same deserved to be dismissed with cost. However, considering

the fact that even the Tribunal has imposed cost on the petitioners, we restrain ourselves to add further cost. Any litigant raising frivolous issues before the Court certainly deserves to be discouraged.

For the reasons mentioned above, we do not find any merit in the present petition, the same is, accordingly, dismissed.

(Rajesh Bindal, J.)

(Aniruddha Roy, J.)