

96
29.11.2021
Ct. No.23
(NB)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 6859 of 2021

Amit Kumar Howladar
Vs.
Union of India & Ors.

Mr. Rajarshi Basu,
Mr. Lal Ratan Mondal,
Mr. Probal Sarkar
... for the petitioner.

Mr. Debasish Chattopadhyay
... for the UOI.

Affidavit of service filed in Court today is taken on record.

The petitioner says that he had participated in the examination for recruiting Sub-Inspector (Executive) by the Railway Protection Force in South Eastern Railway pursuant to an employment notice bearing no.02/11. The petitioner says that he was called in the Physical Efficiency Test (in short "PET") on 20th November, 2012 and claims to have qualified therein as per his best understanding. The petitioner says that despite being successful in the PET, the petitioner was not called for the interview. The petitioner had made an application under the Right to Information Act, 2005 (hereinafter referred to as the "2005 Act") on 27th January, 2021 inter alia seeking a clarification to the result in PET. Being dissatisfied with the reply given to such

letter, the petitioner has approached this Court inter alia seeking for being called in the interview. The 2005 Act has a specific appeal mechanism for ventilating grievances by a person who is dissatisfied with the answer given to the information sought by him/her. The petitioner, therefor, should have availed the appeal remedy instead coming to this Court directly. Even considering that alternative remedy is not a bar in approaching this Court in writ jurisdiction, for the reliefs claimed, the long delay which has substantially changed the scenario in the interregnum remains unexplained. The long delay from the "PET", the date of the interview held against the concerned employment notice and the time when the application under the 2005 Act was made by the petitioner is fatal. The reliefs claimed in the writ petition after lapse of more than eight years cannot be also granted since the situation has changed after the interview was held. No vacancy can remain against the subject advertisement after lapse of eight years. The petitioner as appears from the affidavit appended to the writ petition is aged about 35 years. The maximum qualifying age under the subject advertisement was 25 years. The petitioner being a member of the scheduled caste is entitled to five years age relaxation. The petitioner, therefor, has long surpassed the maximum age limit to appear in an examination for Sub-Inspector (Executive) in RPF on being called for the interview. Assuming without admitting that the petitioner was deprived, then also after eight years the clock cannot be set back allowing the petitioner any benefit if he is ultimately able to satisfy this Court that he was deprived of an opportunity to appear in the interview.

The writ petition is, therefor, devoid of merits and is accordingly dismissed without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Arindam Mukherjee, J.)