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Ct-16

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WPST 36 of 2021

(Via Video Conference)

Sandip Samanta & Ors.

Vs.

State of West Bengal & Ors.

Mr. Samim Ahammed
Ms. Salini Bhattacharjee ...For the Petitioners

Mr. Swapan Kumar Datta
Ms. Debjani Mitra ... For the State

The petitioners have challenged the order passed by the West Bengal Administrative Tribunal on 19th March, 2021 dismissing the application filed by the petitioners challenging the eligibility criteria to the post of Wireless Operator in West Bengal Police Telecommunications – 2020. The last date for filing on line or off line applications for the said post was 22nd March, 2021. The advertisement for the said post was made on 13th February, 2021. The matter was taken up by the Tribunal on 19th March, 2021 by dismissing the application on the ground that the applicants did not make any attempt to move this application prior to 19th March, 2021.

It appears from the records that the application was affirmed on 18th February, 2021. On this ground the application was dismissed.

We are unable to agree with the findings given by the West Bengal Administrative Tribunal. The Tribunal, in our view, was required to prima facie find out as to whether the petitioners are entitled to relaxation of the age bar and if so, to allow the petitioners to participate in the said selection process without

prejudice to the rights and contentions of the parties to the said proceedings. The fact remains that the application was filed on 18th February, 2021 and the said application was taken up for consideration on 19th March, 2021 i.e. prior to the last date for filing on line or off line applications for the said post without recording any satisfaction as to whether a prima facie case was made out by the petitioners or not. In our considered opinion, the application could not have been dismissed.

Under such circumstances, we restore the said application. The learned Tribunal is requested to consider as to whether the petitioners are able to make out a prima facie case for relaxation of the age bar.

Since the matter is not likely to be taken up immediately due to the COVID situation, we permit the petitioners to file on line or off line applications for the said post within one week from date.

The State respondents are, however, not prevented from proceeding with the selection process during this period.

In the event, the selection process has already been commenced, the Tribunal is requested to take up this matter on urgent basis within a period of four weeks from date and decide the issue whether the petitioners are able to make out a prima facie case for relaxation of the age bar.

We make it clear that we have not gone into the merits of the matter. The relief we intend to grant is purely on the basis that the Tribunal ought to have taken a prima facie view and decide the application by furnishing cogent reasons therefor.

The learned counsel for the parties are unable to inform us whether the selection process has been started and appointment has been given. It is in the balance of convenience that we permit the petitioners to file the application.

In the event, the selection process has not been started, the petitioners may be allowed to participate in the selection process without prejudice to the rights and contentions of the parties and the result of the petitioners shall be filed before the Tribunal in a sealed envelop for consideration by the Tribunal.

The Tribunal may, in its discretion, hear the application on virtual mode after following all the COVID protocols.

This order shall not create any equity in favour of the petitioners, as admittedly on the basis of the advertisement published there is an age bar staring at the face of the petitioners.

In view of the above observation, WPST 36 of 2021 is disposed of.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of all undertakings.

(Hiranmay Bhattacharyya,J.) (Soumen Sen, J.)

