

Item-2 19-08-2021

WP.ST 62 of 2021

Saddam Hossain & Ors.
Versus
State of West Bengal & Ors.

^{sg}

Ct. 16

(Through Video Conference)

Mr. Samim Ahammed, Adv.
Mr. Arka Maiti, Adv.
Miss. Saloni Bhattacharjee, Adv.
Miss. Gulsanwara Pervin, Adv.
...for the petitioners

Mr. Kishore Dutta, Ld. AG
Mr. Anirban Ray, Ld. GP
Mr. Raja Saha, Adv.
Mr. Pinaki Dhole, Adv.
Mrs. Kakali Samajpaty, Adv.
Mr. Sayan Ganguly, Adv.
...for the State respondents

The petitioners are 17 in number. The writ petitioners have challenged the order passed by the learned Tribunal on 13th August, 2021 by which the petitioners' prayer for interim relief was disallowed by the learned Tribunal on the ground that they have approached the learned Tribunal belatedly. The impugned order, however, does not disclose any reason for not considering the prayer for interim relief. The learned Tribunal has proceeded on the basis that since they have approached the learned Tribunal on 6th August, 2021 and the Notification was published on 16th July, 2021 and in absence of any cogent explanation offered for not approaching the Tribunal prior to 6th August, 2021, the Tribunal is not in a position to hear the application for admission.

The learned Counsel for the petitioners submits that the

Notification issued on 16th July, 2021 is discriminatory and the age bar mentioned in the said Notification is contrary to the Notification issued by the Finance Department on 7th January, 2021. It is also contended that age relaxation could have been given while considering the candidature of the writ petitioners. The learned Counsel has also relied upon the judgment of a coordinate Bench in *WP.ST No. 599 of 2009 (Goutam Surul v. State of W.B.)* reported in (2011) 3 CHN 183 in support of his submission.

The learned Advocate General has opposed the prayer for interim relief.

We have heard the learned Counsel for the parties. It appears that the refusal to grant any interim relief was on the basis that the writ petitioners had approached the learned Tribunal belatedly. We also find that the Notification dated 16th July, 2021 could have been challenged much earlier giving sufficient time to the learned Tribunal to consider the issue raised by the writ petitioners. The issues raised by the writ petitioners that the employment in Kolkata Police and West Bengal Police cannot be classified separately and the classification is discriminatory and arbitrary are the matters to be gone into after the pleadings are complete. The nature of the job is a relevant factor to be considered in fixing the upper age limit.

The Court is not an expert to decide what should be the eligibility criteria particularly, with regard to age of a candidate in a police force. However, these are the matters, as we observed earlier, are to be decided by the learned Tribunal after the

affidavits are exchanged. At this stage, we only permit the petitioners to file their applications off-line till 5 P.M. of 21st August, 2021 together with requisite application fees.

We make it clear that this order shall not create any equity in favour of the writ petitioners and this order is restricted only to the writ petitioners. We also make it clear that we have not gone into the merit of matter. The learned Tribunal shall decide the matter impartially and without being influenced by any observations made by us.

It is submitted on behalf of the State respondents that the Notification dated 16th July, 2021 is based on the Rules called as Combined Recruitment Rules of Sub-Inspector (Unarmed Branch), Sub-Inspector (Armed Branch) & Lady Sub-Inspector in the West Bengal Police and to the posts of Sub-Inspector (Unarmed Branch), Sub-Inspectress (Unarmed Branch) & Sergeant in Kolkata Police notified on 10th January, 2018. This order will not restrain the respondent from carrying out the recruitment process already initiated.

Since no affidavit has been called for, allegations made in this writ petition shall not be deemed to have been admitted by the respondents.

All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)