

S/L 27
06.12.2021
Court. No. 19
GB

WPA 13672 of 2021

Alonti Hembram (Tudu)
Vs.
The State of West Bengal & Ors.

Mr. Srikanta Datta.

...for the Petitioner.

*Md. Galib,
Mr. Sanjib Das.*

...for the State.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner participated in a recruitment process for being appointed as an Accredited Social Health Activist (hereinafter referred to as 'ASHA') under the Block Medical Officer of Health, Nabagram.

The petitioner belongs to the scheduled tribe category. A final list was allegedly published on March 8, 2011 of the successful candidates, who would be appointed as ASHA Karmee. It is alleged that the name of the petitioner as an ASHA Karmee for Tiknara Gram Sansad under Nabagram Gram Panchayat appeared in the final list. It is submitted that although the petitioner's name appeared in the final list, no appointment was given to the petitioner. Several representations had been made by the petitioner in order to ascertain the fate of such recruitment process, but the respondents did not take any steps in the matter. Subsequently, a rectification list was also published in Proforma-A of the Nabagram Gram Panchayat and the name

of the petitioner was sent to the Mission Director for appointment.

It is alleged that the petitioner's name appeared as Serial No.1 in the list for Tiknara Gram Sansad under Nabagram Gram Panchayat. It is further stated that though the rectification had been effected, the petitioner has not yet been appointed. Reliance has been placed on the orders passed in W.P. No.24826 (W) of 2016 and W.P. No.13608 (W) of 2017 and finally WPA No. 3804 of 2021. From all these orders, it appears that coordinate benches of this Court had directed the competent authority, that is the respondent no.2 to grant appointment and approval to the petitioners in those writ petitions in accordance with law on the basis of the final list prepared in the same recruitment process, which is the subject matter of challenge in this writ petition. It has been pleaded that those orders have been complied with. The orders have not been challenged by the state, instead they have been complied with. Learned Advocate for the state respondents does not dispute such submission made on behalf of the petitioner.

It is settled law that the state cannot deny benefits to similarly situated persons. Those petitioners who had come before this Court had been granted reliefs by other coordinate Benches with a mandatory direction upon respondent no.2, to grant appointment and subsequent approval to those petitioners as ASHA Karmees.

Admittedly, the petitioner is similarly situated and the name of the petitioner appeared in the same final list

prepared in respect of the same recruitment process. Thus, when some of the applicants/candidates who were selected just like the petitioner had been granted the benefit, there is no reason why the petitioner herein shall not be granted the same benefits, unless of course, there are other reasons for not granting the same.

With the above observations the writ petition is disposed of with a direction upon the respondent nos.2 to 4 to grant necessary appointment and approval to the petitioner as an ASHA Karmee in terms of the orders already passed by this Court on various occasions. If the petitioner has been enlisted in the final list in the same recruitment process in respect of which the other orders were passed, in that case, similar benefits be given to the petitioner. If it is found that the petitioner is similarly situated then appointment shall be given, but if it is found that the petitioner did not stand in the same footing and similar benefits cannot be given for valid reasons in that case, reasons shall be disclosed to the petitioner by an order, which shall be communicated to the petitioner.

The entire exercise shall be completed within a period of six weeks from date of communication of this order.

As no affidavits have been called for, the allegations are deemed to be denied.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)