

Item No.13

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

04.10.2021
Ct-24

WPA 14972 of 2021
Rupali Sen
v.
Union of India & Ors.

Mr. Soumya Majumdar
Mr. Victor Chatterjee
Ms. Sanjukta Dutta
... for the petitioner.

Mr. Subhankar Chakrabaorty
Mr. Saptarshi Bhattacharjee
... for the Union of India.

The petitioner is aggrieved by the inaction on the part of the National Institute for Locomotor Disabilities in not giving effect to the proposal forwarded by the Deputy Secretary to the Government of India, Department of Empowerment of Persons with Disabilities on September 23, 2016 whereby the Director of the Institute has been requested to examine and submit the proposal for revision of Recruitment Rules for the post of Associate Professor in Occupational Therapy in similar lines as revised for the post of Associate Professor in Orthopedics/PMR & Prosthetic and Orthotic.

According to the petitioner as the Recruitment Rules have not been revised in terms of the aforesaid

Advisory of the Ministry, accordingly she remains ineligible to participate in the recruitment process pursuant to the employment notification published by the Institute on May 21, 2021.

The petitioner raised her grievance by way of filing an undated representation before the Ministry sometime in June 2021. The petitioner also forwarded a copy of the representation to the Director of the Institute on June 18, 2021.

The petitioner, only after filing the aforesaid representation, applied in response to the aforesaid advertisement on June 22, 2021.

The petitioner submits that until and unless the Recruitment Rules are revised in terms of the Advisory of the Central Government, then less qualified candidates will be eligible to participate in the recruitment process whereas the petitioner holding twenty-nine years service experience remains ineligible.

The learned advocate representing the respondents submits, upon instruction, that the petitioner is ineligible to be considered pursuant to the recruitment notice published on May 21, 2021.

According to the respondents, as the petitioner did not complete five years tenure as Assistant Professor, accordingly she is ineligible to be appointed in the post of Associate Professor.

As it appears that the representation filed by the petitioner is pending consideration at the end of the respondent authorities the instant writ petition is disposed of by directing the respondent nos. 3, 4 and 5 to take a decision upon consideration of the representation filed by the petitioner in accordance with law, at the earliest, but positively within a period of three weeks from the date of communication of a copy of this order.

The said respondents shall pass a reasoned order and communicate the same to the petitioner immediately thereafter. In the event, the respondents accept the prayer of the petitioner, then necessary consequential steps shall be taken by the respondents.

The petitioner is directed to forward a copy of the representation filed before the respondents at the time of communicating the order of this Court.

It is made clear that this Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the said respondents at the time of consideration of the representation of the petitioner.

It is desirable that prior to finalization of the selection process the respondents shall pass a reasoned order in the matter and communicate the same to the petitioner.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)