

IN THE HIGH COURT AT CALCUTTA
(Appellate Side)
CONSTITUTIONAL WRIT JURISDICTION

WP.ST 96 of 2018

Heard on: 23/03/2021

Pronounced on: 13/04/2021

Mantu Lal Sasmal

...Appellant

Through:-
M/s Subhrangsu Panda and
Goutam Dinda, Advocates

-Vs-

State of West Bengal & Ors.

...Respondents

Through:-
Mr. Somnath Naskar, Advocate

Coram: THE HON'BLE JUSTICE RAJESH BINDAL
THE HON'BLE JUSTICE ANIRUDDHA ROY

ORDER

Rajesh Bindal, J.

1. Order dated June 21, 2018 passed by the West Bengal Administrative Tribunal, Kolkata (for short, 'the Tribunal') has been challenged by the petitioner by filing the present writ petition.

2. The facts of the case as are evident from the record are that the petitioner was appointed on the post of Workshop Instructor (Foundry) in Jalpaiguri Polytechnic Institute on December 26, 2011. He joined as such on January 02, 2012. The background of the litigation was that the petitioner was second in the order of merit in the selection process of Workshop Instructor (Foundry). The candidate at merit list No.1 was given appointment. However, the same was challenged. The same was

finally subject-matter of consideration before this Court in WP.ST 342 of 2003. After the Tribunal, this Court vide order dated August 26, 2008 directed the State to issue appointment letter to the petitioner who was at merit position No.2 in case, the candidate who was first in the merit list fails to produce the requisite certificate of his educational qualification within a period of one year from the date of receipt of certified copy of the order. The candidate at merit position No.1 failed to submit certificates for his educational qualification within the stipulated time. Despite this fact the petitioner was not issued the appointment letter. The petitioner had to file CPAN No.435 of 2010 alleging non-compliance of the order dated August 26, 2008 passed by this Court. The contempt petition was disposed of on September 05, 2017 giving liberty to the petitioner to avail of his appropriate remedies for grant of any further benefits as by that time he has already been offered appointment. Thereafter the Original Application was filed before the Tribunal which was dismissed. The claim is that the petitioner is required to be given notional benefits from the date he should have been appointed but was not appointed on account of delay in the hands of the official respondents in complying with the order passed by this Court.

3. A perusal of the paperbook shows that in a challenge to the appointment of the candidate at serial No.1 in the merit list this Court in WP.ST 342 of 2003 decided on August 26, 2008 had given liberty to the selected candidate to produce certificate of his educational qualification within a period of one year from the date of receipt of copy of the order. On failure appointment was to be cancelled and the present petitioner who was second in the merit list was to be given appointment. The claim was said to be made by the petitioner that he should be given all the benefits from the year 2001 when the candidate at serial No.1 in the merit list was appointed as the petitioner was to be appointed in his place in case, he failed to obtain the requisite qualification. However, he was appointed and joined as such on January 2, 2012. But we find the claim to be totally misconceived. In a challenge to the

appointment of candidate at serial No.1 in the merit list this Court had passed a conditional order on August 26, 2008 in WP.ST 342 of 2003 that on failure of the candidate at serial No.1 of merit list to produce certificate of the requisite educational qualification, his appointment shall be cancelled and the petitioner be appointed in his place. This Court never directed that in case the petitioner is appointed he should be given benefit from the date the candidate at serial No.1 in the merit list was given benefit. He wanted all the benefits for a period of about 11 years without even working for a single day. Had the petitioner been aggrieved of non-grant of conditional relief, at that stage he should have availed of his appropriate remedy. The petitioner is being more greedy as after joining on the post he started opening his mouth wide to claim more benefits.

4. The Tribunal has not committed any error in declining relief prayed for by the petitioner as it is not the case that any candidate who was lower in merit than the petitioner was appointed prior to him and still in service, depriving the petitioner of any service benefit on that account.

5. There is no merit in the present petition. The present petition is, accordingly, dismissed.

(RAJESH BINDAL)
JUDGE

(ANIRUDDHA ROY)
JUDGE

Kolkata

13/04/2021

PA(SM)