

24.03.2021
Item No.18
Crt.No.11
K.B.

**M.A.T. 1845 of 2016
with
CAN No. 1 of 2021**

**Sandipan Jana
-Versus-
The State of West Bengal & Ors.**

Mr. Sankar Prasad Dalapati
Mr. Subrata Sarkar
Sk. Nizamuddin
Ms. Barnali Gupta
.... For the Appellants.

Mr. Jahar Lal De
Mr. Samim-ul-Bari
.... For the State-respondents

The instant appeal is at the instance of the writ petitioner and is directed against an order dated September 7, 2016 passed by an Hon'ble Single Judge in WP No. 4242 (W) of 2016.

The appellant herein claims to have applied for the post of Gram Panchayat Sahayak. He claims to be a wait listed candidate in the relevant category.

The grievance of the appellant before the Writ Court was that in spite of the fact that he has appeared before the Medical Board, but no letter of appointment was given to the appellant herein.

The appellant herein also claims to have made a representation before the concerned respondent on January 13, 2016 which is appearing at page 56 of the application

for stay with a prayer for issuance of a letter of appointment for joining in the said post.

The Hon'ble Single Judge by the order impugned dismissed the writ petition upon holding that mere empanelment does not confer any right upon a candidate to seek a mandamus for appointment. It was further observed in the impugned order that the papers were sent to the higher authorities and upon police verification it has been found that two criminal cases, i.e. Mayna P.S. Case No.88 of 2015 dated April 18, 2015 and Mayna P.S. Case No.15 of 2015 dated June 15, 2015 were pending against the appellant herein at the relevant point of time.

Being aggrieved against such order, the writ petitioner has preferred the instant appeal.

Mr. Dalapati, the Learned Advocate appearing for the appellant submits that the criminal cases referred to in the order impugned has been disposed of long back and the appellant was acquitted in the said criminal cases.

He thus submits that since the appellant has been acquitted in the criminal cases there cannot be any impediment in passing a direction upon the authorities to consider the case of the appellant for an appointment to the said post.

Mr. De, Learned Senior Advocate for the State submits that the life of the panel stood expired long back. The appellant herein did not bring to the notice of the concerned authorities and also before the Hon'ble Single

Judge that the cases as indicated in the order impugned were disposed of.

He further contended that after expiry of the panel there is no question of consideration of the case of the appellant at this stage.

We have heard the learned advocates for the parties and have perused the materials on record.

It appears from the representation annexed at page 56 to the stay application that the appellant herein prayed for issuance of an appointment letter on the ground that the medical test has been completed. In the said representation the appellant did not disclose the fact of pendency of the criminal cases before the said authorities and only upon police verification, it was detected that two criminal cases were pending against the appellant herein.

Furthermore, the appellant herein for the first time in the instant appeal has brought to the notice of this Court about the fact that the appellant was acquitted in the criminal cases only by filing an application for stay in connection with the appeal in the year 2021 long after the panel had expired. The appellant herein cannot also be said to have been honourably acquitted by the Criminal Court as it appears from the judgements passed in connection with the criminal cases.

In view thereof, we do not find any reason to interfere with the order impugned.

Accordingly, MAT 1845 of 2016 along with CAN 1 of 2021 are dismissed without further order as to costs.

Since the facts are admitted, no affidavits were invited and the instant appeal was taken up for hearing by treating the same as on the day's list. The allegations contained in the stay application shall be deemed not to have been admitted by the respondents.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Hiranmay Bhattacharyya, J.)

(Subrata Talukdar, J.)