

WPST 103 of 2020

**The State of West Bengal & Anr.
Vs.
Sri Sukumar Debnath & Ors.**

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Mr. Anirban Roy, Ld. G.P
Mr. Shamim-ul Bari
...For the Petitioners

Mr. Asim Hati
Mrs. Nibedita Barui
Mrs. Nandini Sharma
...For the Respondents

This writ petition is directed against an order passed by the West Bengal Administrative Tribunal on 14th March, 2019 in O.A 927 of 2015 in connection with an application directing the respondent authorities to treat the list of nominated candidates of ASI Excise-13 (2nd list) as valid and genuine and thereby issue appointments in favour of the reserved candidates. The petitioner was one of the candidates short-listed.

The petitioner approached the Tribunal in view of various discrepancies in the preparation of the merit list for the post of Assistant Sub-Inspector of Excise. The petitioner, Sukumar Debnath belonged to the BC.B(EC) category.

Record reveals that the panel of five candidates has been short-listed by the concerned authorities on the basis of the marks obtained. However, curiously the name of the original applicant was removed and two persons were accommodated in the place and stead of the original applicants. Three different lists of the nominated candidates under exempted category of unreserved category were placed before the Tribunal. As the said lists are apparently

contradictory, no explanation was offered by the State before the Tribunal for excluding the name of the original applicants when the fact remains that they were eligible for the post and they were in the list of five short-listed candidates. The Tribunal, in our view, has correctly identified the issue and directed the concerned authorities to appoint the original applicant no. 1/respondent no. 1 herein.

It is evident from page 35 of the application, which contains the list of nominated candidates that there were five successful candidates under BC-B(EC) and the original applicant stood fifth in the said category. After appointing Sukhdeb Banik and Dipak Biswas, three vacancies still remained and Pratap Ghosh declined to accept the appointment. Out of five short-listed candidates, two were appointed and three vacancies remain. The original applicant, being the fifth candidate, was entitled to the said appointment.

The objection raised by the Tribunal with regard to the appointment of the original applicant was that the life of the panel has expired during the pendency of the proceeding before the Tribunal. The Tribunal had taken note of the said facts and an interim order was passed on 15th September, 2015 by which the authority concerned was directed not to fill up two posts during the pendency of the original application. On such consideration, the Tribunal did not accept the submission and moreover the Tribunal found merit in the claim of the original applicant for the said post.

It is evident from the record that the exclusion of the original applicant, suddenly after he was found eligible, was curious and could not be satisfactorily explained. The

eligibility of the original applicant is not in dispute.

In fact, the present writ petitioners have filed an application for review of the order dated 14th March, 2020 which was ultimately withdrawn by the writ petitioners on 5th March, 2020.

On such consideration, we do not find any reason to interfere with the order passed by the Tribunal.

Accordingly, the writ petition being WPST 103 of 2020 fails and is hereby dismissed.

There will be no order as to costs.

We direct the authorities concerned to carry out the direction of the Tribunal within four weeks from date.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of all undertakings.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)

