

08.07.2021  
Item no.99

Aloke  
Ct. no.16

**(Through Video Conference)**

**WPST 105 of 2020**

**Md. Toushif Jamal**

**Versus**

**The State of West Bengal & Ors.**

Mr. Kalyan Kr. Chakraborty, Adv.

Mr. Ashok Halder, Adv.

... for the petitioner

The writ petition is arising out of an order passed by the learned Tribunal on August 2, 2019 in OA No. 68 of 2019 in connection with the application filed by the writ petitioner praying inter alia for consideration of his representation dated December 1, 2018. The prayer in the representation was for review of post on appointment from Group 'D' post to Group 'C' post.

The State was not represented before the Tribunal.

We request Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader with Mr. Pranab Halder, Advocate to appear on behalf of the respondent authorities. The Legal Remembrancer is directed to regularize their appointment.

We are of the view that the learned Tribunal ought to have referred the matter to the authorities concerned for consideration of the representation without expressing its opinion on merit of the said representation.

On such view of the matter, we set aside the order of the learned Tribunal and direct the Directorate of Health Services, Government of West Bengal to consider the representation dated December 1, 2018 for review of post on appointment from Group 'D' post to Group 'C' post after giving the writ petitioner an opportunity of hearing either on the virtual mode or physically subject to the compliance of Covid protocols.

The representation shall be decided by the Directorate of Health Services, Government of West Bengal or any person authorized by the Directorate of Health Services in terms of the order by a reasoned order which shall be communicated to the petitioner within one week after the order is passed by the authority concerned in terms of this order.

We make it clear that we have not gone into the merits of the case. The authority concerned shall not take any decision in terms of the order passed by the learned Tribunal as we have set aside the order of the Tribunal. The matter shall be decided by the authority concerned without being influenced by any observation by the tribunal or by us

The writ petition is, thus, disposed of. There shall be no order as to costs.

All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

**(Amrita Sinha, J.)**

**(Soumen Sen, J.)**