

DI. August 17,
29. 2021

Through Video Conference

W.P.S.T. 109 of 2020

Mr. Partha Sarathi Bhattacharya,
Mr. Ashis Kumar Chowdhury,
Mr. Raju Bhattacharya,
Ms. Debolrupa Mukherjee,
Ms. Sanjukta Das,
...for the writ petitioners.

Mr. Swapan Kumar Datta,
Ms. Debjani Mitra,
...for the State,

Mr. Pradip Kumar Roy,
Ms. Shraboni Sarkar,
...for West Bengal Public
Service Commission.

This writ petition is directed against an order passed by the West Bengal Administrative Tribunal on September 26, 2019 in connection with the Original Application No. 1088 of 2017 filed by the writ petitioners praying, inter alia, for a direction upon the respondents no. 2 and 3 to include the vacancies of all the department which were reported to the West Bengal Public Service Commission and to fill the posts in question of Junior Engineer Civil Branch.

After admitting the original application, the tribunal on consideration of an affidavit filed by the West Bengal Public Service Commission rejected the original application.

Mr. Partha Sarathi Bhattacharya, learned senior advocate appearing on behalf of the writ petitioners, submits that the tribunal has overlooked the fact that the West Bengal Public

Service Commission, on September 11, 2017, has clearly stated that there are 1387 vacancies in total and that the merit list will remain valid till December 7, 2017. It is submitted that even if it is assumed to be correct that the West Bengal Public Service Commission has recommended a list of 1082 candidates for the post of Junior Engineer Civil Branch on the result of the Junior Engineer (Civil/Mechanical/Electrical) Recruitment Examination, 2016. The fact remains that no explanation was offered by the West Bengal Public Service Commission for not considering the names of the writ petitioners, who were empanelled on the basis of the merit list.

Mr. Pradip Kumar Roy, learned advocate appearing on behalf of the West Bengal Public Service Commission, submits that due to non-availability of suitable candidates, appointment could not be made to the remaining posts.

The contention of Mr. Roy is not supported by the affidavit filed before the tribunal. The tribunal had no occasion to consider the plea raised by Mr. Roy before us. The tribunal has shifted the onus on the writ petitioners for not recommending the names of the writ petitioners by the West Bengal Public Service Commission by overlooking the fact that the Public Service Commission has a special knowledge of all facts. In our view, the onus must be upon the West Bengal Public Service Commission to offer a plausible explanation for not recommending the names of the writ petitioners. The affidavit on which the reliance is placed by the tribunal does not disclose any reason for not recommending the names of the writ petitioners.

On such consideration, we are of the view that the

matter requires reconsideration by the tribunal. The West Bengal Public Service Commission is directed to produce all records relating to the said selection process and to offer an explanation for not recommending the names of the writ petitioners, if required, by way of an affidavit before the tribunal. The order impugned dated September 26, 2019 passed by the West Bengal Administrative Tribunal is, therefore, set aside. We request the tribunal to dispose of Original Application No. 1088 of 2017 afresh as expeditiously as possible, preferably within a period of six months from the date of communication of this order. Any vacancy filled up during the pendency of the proceeding before the tribunal shall abide by the result of the original application.

We make it clear that this order is restricted only to the writ petitioners before us.

The writ petition is, thus, disposed of without any order as to costs.

Photostat certified copy of this order, if applied for, will be made available to the applicant within a week from the date of putting in the requisites.

(Soumen Sen, J.)

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(Hiranmay Bhattacharyya, J.)

