

ORDER SHEET
W.P.O. NO. 123 OF 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PAPIYA DAS AND ORS.
Versus
THE HIGH COURT AT CALCUTTA AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 21st June, 2021

(Via Video Conference)

Appearance:
Mr. Arunava Ghosh, Adv.
Mr. Anindya Lahiri, Adv.
Mr. Samrat Dey Paul, Adv.
For petitioners
Mr. Sudipta Narayan Ghosh, Adv.
Ms. Tapasikha Bose, Adv.
For respondent
Mr. Joydip Kar, Sr. Adv.
Mr. Siddhartha Banerjee, Adv.
For High Court Administration

The Court : Mr. Ghosh, learned advocate appearing on behalf of the petitioners submits that the appointment of the petitioners, who are otherwise eligible to be appointed in the cadre of District Judge (Entry Level) has been unnecessarily delayed. Records reveal that the writ petition was heard extensively before the learned Co-ordinate Benches of this Court and finally an order was passed directing the High Court Administration to file a report with regard to the prayer for appointment of the writ petitioners. Initially the writ petition was filed for appointment of the petitioners against the vacancies which were not filled up by direct recruits due to non-availability of suitable candidates. Such prayer was made on the basis of the Rule 26(1)(c) of West Bengal Judicial (Conditions of Service) Rules 2004 which permit appointment of promotee District Judges from the regular promotion quota to such kind of vacancies.

Mr. Kar, learned senior advocate appearing for the High Court Administration submits that the said question has now become academic for the

purpose of disposal of this writ petition. According to Mr. Kar, the report filed by the High Court Administration would clarify the position. The Hon'ble Administrative Committee of this Court had unanimously resolved that against eleven vacancies available under the regular promotion quota, appointments would be made subject to eligibility and suitability and as such, the petitioners whose ranks are 18, 21 and 23 respectively in the merit list would be considered in terms of the decision of the Hon'ble Administrative Committee. The decision of the Hon'ble Administrative Committee is a part of the report.

Mr. Kar relies on the report filed by the Registrar General. Relevant paragraphs of the report are quoted below:-

"12. On 4th June, 2021 the Hon'ble Administrative Committee considered the materials and document prepared by the Registry on the basis of the recommendations of the three Member Committee in the form of a paper book and it was unanimously resolved that 11 vacancies available in the relevant cadre under the regular promotion quota can be filled up from eligible candidates considering their eligibility and suitability. The minutes of the meeting of the Hon'ble Administrative Committee were then circulated amongst all the Hon'ble Judges of the Hon'ble Court for obtaining their views, if any, in this regard. It was further resolved that if no contrary view is expressed by any Hon'ble Judge by 14th June, 2021, the decision of the Hon'ble Administrative Committee would be deemed to have been approved by the Full Court by circulation.

13. I say that no contrary view was thereafter received from any Hon'ble Judge and, therefore the decision taken by the Hon'ble Administrative Committee on 4th June, 2021 as regards the

appointments to be made in the cadre of District Judge (Entry Level) is final and deemed approved by the Full Court.”

Mr. Ghosh submits that once it is an admitted position by the High Court that the petitioners are entitled to be appointed as District Judge (Entry Level), directions should be issued for their immediate appointment as some of them are due to retire by the end of this year.

Having heard the submissions made by the respective learned advocates, the writ petition is disposed of with a direction upon the respondents to appoint the petitioners against the eleven vacancies along with other eligible candidates as per the merit list and in terms of the decision of the Hon’ble Administrative Committee of the High Court. I do not find any reason as to why such appointments should not be made expeditiously, taking into consideration the position of the petitioners in their merit list and also because there are no other impediments. The respondents are directed to complete the process of such appointment, in order of merit, within a period of eight weeks from the date of communication of this order.

The points raised as to whether the available vacancies in the cadre of direct recruits could be filled by the petitioners, is not answered by the Court in view of submissions made on behalf of the High Court Administration.

As no affidavits have been called for, the allegations against the High Court Administration are deemed to be denied.

(SHAMPA SARKAR, J.)