

WPO 353 of 2020
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

DR. KRISHNA SANKAR GANGULY
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS

Before:
The Hon'ble Justice AMRITA SINHA
Date: 15th March, 2021

Appearance:
Mr. Amares. Ray, Adv.
Mr. Mousumi Bhowal, Adv.
...for petitioner.

Mr. Swapan Kr. Debnath, Adv.
Mr. Ranajit Chatterjee, Adv.
Mr. Subhrangsu Panda, Adv.
...for K.M.C.

The Court: The petitioner is a Medical Officer serving in the Kolkata Municipal Corporation. He attained the qualification of Post Graduate Diploma in Health Sciences in Public Health in the year 2011. Prior to appearing in the said examination the petitioner intimated the employer and took study leave for appearing in the said examination. Upon obtaining the said qualification the petitioner immediately intimated the concerned authority of the Kolkata Municipal Corporation for recording the said higher qualification in his service records. The same was not recorded in time. The higher qualification of the petitioner was recorded in the year 2017. Due to the delay in recording of the

higher qualification in the service records, the name of the petitioner got degraded in the gradation list published by the employer.

Presently, the petitioner claims to be entitled for promotion in the post of Deputy Chief Municipal Health Officer but due to upgradation of the names of his juniors in the gradation list accordingly, the petitioner apprehends that his juniors may supersede him and he may lose the chance of being promoted to the post of Deputy Chief Municipal Health Officer.

The petitioner made series of representations before the Kolkata Municipal Corporation and claims that none of the representations have been considered by the authority till date.

The learned Advocate representing the Kolkata Municipal Corporation submits that in view of the direction issued in the D.M.C(P)'s Circular no. 86 of 1993-94, the date of recording of the higher qualification in the service book is to be reckoned for the purpose of seniority. As the qualification of the petitioner was recorded at a later date accordingly, he lost his seniority in the gradation list.

It appears from the records and submissions made on behalf of both the parties that the petitioner, though made representations before the Kolkata Municipal Corporation for recording his higher qualification in his service records right from the year 2012 but thereafter he did not approach the Court as the necessary recording was not made in his service book. The final gradation list for being promoted in the post in

question was published in the year 2013. The name of the petitioner appears at the bottom of the seniority list.

Had the Corporation recorded the higher qualification of the petitioner at the proper time then the petitioner would have attained the right seniority for being promoted in the said post. The Corporation is at fault in not recording the higher qualification of the petitioner in the right time.

In view of the above, the instant writ petition is disposed of by directing the respondent no. 4 being the Chief Manager (Personnel) to consider the representation made by the petitioner on 28th July, 2017 strictly in accordance with the relevant rules/ circulars/ notifications of the Kolkata Municipal Corporations, after giving an opportunity of hearing to the petitioner and all other necessary parties, within a period of eight weeks from the date of communication of this order. The said respondent shall pass a reasoned order and communicate the same to all the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the said respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed forwarded a copy of his representation dated 28th July, 2017 at the time of communicating the order of the Court.

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

(AMRITA SINHA, J.)

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