

Court No. 24
18.04.2022
(Item No. 10)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 12722 of 2021

Padmavathi Sakkinala
VS
The State of West Bengal & Ors.

Mr. Ujjal Ray
Mr. Arpa Chakraborty
..... for the petitioner
Dr. Sutanu Kumar Patra
..... for SSC
Ms. Koyeli Bhattacharya
..... for WBBSE

Affidavit of service filed in Court today is taken on record.

None appears on behalf of the State respondents despite service.

The petitioner participated in the 12th RLST (AT), 2011 conducted by the West Bengal Central School Service Commission. Initially she was declared “not qualified” in the aforesaid examination.

She approached the Court on a number of occasions challenging her disqualification. Lastly, by a communicating memo dated 25th October, 2019 the Secretary, Central School Service Commission intimated the petitioner that the Commission has declared her “qualified” in part-II in connection with 12th RLST (AT), 2011.

Recommendation letter in favour of the petitioner was issued by the Commission to the President of the West Bengal Board of Secondary

Education in September, 2020 and the appointment letter was issued in favour of the petitioner in November, 2020. The petitioner joined service as Assistant Teacher in Work Education in Kharagpur Telegu Vidya Peetham High School, Kharagpur in November, 2020. Her service was approved by the Additional District Inspector of Schools, Kharagpur Sub-Division on 7th December, 2020 with effect from November, 2020.

According to the petitioner, had she been declared qualified at the very first instance, then she would have attained seniority as well as financial benefit. The petitioner has annexed document to show that candidates from the panel prepared in respect of 12th RLST (AT), 2011 were appointed way back in the year 2012/2013.

Presently, the petitioner prays for a direction upon the respondent authorities for grant of monetary benefits as well as notional benefits in her favour.

In the order dated 31st July, 2018 passed by this Court in the writ petition filed by the petitioner being WP 5589 (W) of 2018 the Court specially mentioned that if the petitioner is successful, necessary consequential relief should be granted in accordance with law.

According to the petitioner, she is entitled to consequential relief at par with the candidates of the panel prepared in respect of 12th RLST (AT), 2011.

In support of the submission made by the petitioner that she was not at fault and accordingly the seniority benefits as well as monetary benefits ought to be allowed in her favour the petitioner relies upon the judgment of the Hon'ble Supreme Court in the matter of Ramesh Kumar Vs. Union of India and Others reported in (2015) 14 Supreme Court Cases 335, paragraph Nos. 9-12, 15 and 16.

The Hon'ble Supreme Court was of the opinion that the principle of "No work no pay" could not be attracted where the respondents were in fault in not considering the case of the appellant and not allowing the appellant to work on a post carrying higher pay scale. The Hon'ble Supreme Court was pleased to direct the respondents to release arrears of pay and allowances to the appellants.

In the present case, it is seen that it was due to the fault of the respondents that the petitioner was declared qualified late in the year 2019, that too, after several rounds of litigation before this Court.

The candidates who appeared along with the petitioner in the said selection process were given appointment way back in the year 2012/2013. Had petitioner been declared successful at the very first instance, she would have been in service from the

said period i.e. 2012/2013. Due to the illegal and arbitrary act of the respondents, the petitioner was issued the letter of recommendation and thereafter letter of appointment only in the year 2020. By this time the petitioner lost valuable years in service and has also suffered financial loss on account of non-receipt of the salary and also on account of litigation costs.

In view of the above, the petitioner is granted leave to file a fresh representation before the Principal Secretary, School Education Department highlighting her grievances. In the event such a representation is made within 28th April, 2022, the same shall be considered by the Principal Secretary, School Education Department strictly in accordance with law, at the earliest, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of twelve weeks from the date of communication of a copy of this order. The Principal Secretary, School Education Department shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

The petitioner shall be entitled to rely upon all documents to support the ratio laid down in the judgment of Ramesh Kumar (supra) at the time of hearing.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)