

30 18.08.22

Ct. No. 04

Akd

WP.ST 60 of 2022

Sudip Kumar Chattopadhyay & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Biswarup Nandy,

Mr. Rajesh Kumar Shah.

... for the petitioners.

Mr. Raja Saha,

Mr. Biswabrata Basu Mallick,

Mr. Sayan Ganguly.

... for the State.

Mr. Samim Ahammed,

Mr. Arka Maiti,

Ms. Gulsanwara Pervin.

... for the proforma respondents.

The affidavit of service filed today be kept with the record.

The tribunal application being OA 270 of 2022 was disposed of by the West Bengal Administrative Tribunal by granting liberty to the writ petitioners and the proforma respondents to file representation collectively ventilating their grievances before the Secretary and Controller of Examinations, West Bengal Health Recruitment Board, Kolkata by 11-30 a.m. on 5th May, 2022 with further direction upon the said authority to dispose of the said representation and pass a reasoned order on the same day.

Our attention is drawn to page 130 of the instant writ petition for the fact that pursuant to the order of the Tribunal the representation was made before the authority on the said date, but no further communication has been made as yet. However, the challenge is thrown to the order of the Tribunal by which such direction was passed contending that the Tribunal has, in fact, proceeded against the judgement of the Special Bench and, therefore, cannot be entertained.

It appears that the Tribunal instead of deciding the said issue has relegated the matter to the authority to take a decision pertaining to relaxation of age for appearing in the examination. Since no independent decision has been taken by the Tribunal, we do not intend to interfere with the same as the entire issues have been relegated to the authority for taking a conscious decision.

Mr. Basu Mallick, learned Advocate appearing for the State, could not apprise us to the fact whether the authority had passed an order on the same day or not. It is vociferously submitted by the learned Advocate for the petitioners that no decision has been communicated to them as of date.

Be that as it may, once the matter has been directed to be decided by the competent authority, it is an ardent duty of such authority to comply with the directions passed by the Tribunal and cannot act in gross violation thereof.

We are unable to reach to the conclusive findings whether the decision has been taken on the said date and duly communicated to the writ petitioners. In absence of convincing materials before us we feel that justice would be sub-served if another date is fixed and the authority takes a decision on the said date and communicate the same to the petitioners or their representatives, as the case may be.

We, therefore, direct the respondent no. 5 to take up the representation filed on 5th May, 2022 on 26th August, 2022 at 11-30 a.m. It goes without saying that the said authority shall afford an opportunity of hearing to the respective writ petitioners and proforma

respondents or their representatives and shall dispose of the said representation by passing a reasoned order on the same day and shall communicate the same within three working days therefrom.

With the above observations the writ petition is disposed of.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)