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05.04.2022

PA(RB)

WPA (P) 319 of 2021

**Moutusi Nanda and Others
Vs.
The State of West Bengal & Ors.**

With

WPA (P) 284 of 2021

**All Bengal Youth Welfare Associate
Vs.
State of West Bengal and Others**

Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
Mr. Salma Sultana Shah,
Mr. Raju Bhattacharyya,
Mr. Arunava Maiti,
Ms. Ankita Dey,
Mr. Sougata Mitra, Advocates
...for the petitioners
in WPA (P) 319 of 2021

Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
Mr. Salma Sultana Shah,
Mr. Rameswar Sinha,
Mr. Raju Bhattacharyya,
Mr. Arunava Maiti,
Ms. Ankita Dey,
Mr. Sougata Mitra, Advocates
...for the petitioners
in WPA (P) 284 of 2021

Mr. S.N. Mookherjee, Ld. APP
Mr. T.M. Siddiqui,
Mr. Nilotpal Chatterjee, Advocates
...for the State
in WPA (P) 319 of 2021

Mr. Jahar Lal De,

Mr. Rudranil De, Advocates

...for the State

in WPA (P) 284 of 2021

These petitions are at the instance of unemployed job-seekers registered in the West Bengal Employment Exchange and their association, raising the issue that Group-D posts in the different departments of the Government of West Bengal as also in Civic Police and other contractual employment be filled up by the candidates registered with the employment bank.

Submission of learned Counsel for the petitioner is that a scheme was formulated by the State in this regard. As against this, learned Advocate General has submitted that though the scheme was framed but in view of the law settled by the Hon'ble Supreme Court, employment opportunity cannot be restricted to a particular group of persons registered with the employment exchange.

Having heard the learned Counsel for the parties, we find that the Hon'ble Supreme Court in the matter of **Excise Superintendent Malkapatnam, Krishna District, A.P. Vs. K.B.N. Visweshwara Rao and Others** reported in **(1996) 6 SCC 216** has held as under:

“6. Having regard to the respective contentions, we are of the view that contention of the respondents is more acceptable which would be consistent with the principles of fair play, justice and equal opportunity. It is common knowledge that many a candidate is unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving candidate is deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for the requisitioning authority/establishment to intimate the employment exchange, and employment exchange should sponsor the names of the candidates to the requisitioning departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate department or undertaking or establishment should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news bulletins; and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates.”

The above judgment in clear terms laid down that calling the name only from the employment exchange may deprive many deserving candidates' right to be considered for appointment to a post under the State. Hence, such a prayer made by the petitioners cannot be accepted. That apart, we also find that the petitioners have filed the PIL raising personal cause. Additionally, it is also noticed that a PIL cannot be maintained in a service matter in view of the judgment of the Hon'ble Supreme Court in the matter of **Neetu Vs. State of Punjab and Others** reported in (2007) 10 SCC 614 and in the matter of **Madan Lal Vs. State of Jammu and Kashmir and Others** reported in (2014) 15 SCC 308.

Thus, no ground for interference in the above writ petitions is made out, which are accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)