

Court No. 22
30.11.2022
(Item No. 41)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 16693 of 2022

Proloy Mondal
VS
The State of West Bengal & Ors.

Mr. Uday Sankar Chattopadhyay
Mr. Santanu Maji
Mr. Sayan Chattopadhyay
Mr. Subhayu Das
..... for the petitioner
Mr. Bhaskar Prasad Vaisya
Mr. Arindam Chattopadhyay
.....For the State
Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
Ms. Debalina Chakraborty
..... for SSC
Ms. Koyeli Bhattacharyya
.... For WBBSE

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

The petitioner is an employee and serving the Defence department at Ordinance Factory, Jabalpur. The petitioner had qualified the **1st State Level Selection Test, 2016, for recruitment of Assistant Teachers for Higher Secondary Schools (Classes XI to XII) under the category OBC-B (for short, SLST, 2016)**. He was selected and the necessary recommendation was made by the respondent No. 3 on **August 29, 2018, Annexure P-3** to the writ petition. Following such recommendation, appointment letter was issued on September 19, 2018, **Annexure P-4** to the writ petition as an **Assistant Teacher** at **Kharera A.N.H. Memorial High School (H.S.) District – Murshidabad**.

The petitioner contended that, after securing this post of **Assistant Teacher** he tendered his resignation before the Defence Department at the relevant Ordnance Factory on **September 20, 2018**, **Annexure P-5** to the writ petition. The Defence Department by its communication dated **September 27, 2018** informed that, one month notice was required for tendering resignation and accepting such resignation, **Annexure P-6** to the writ petition. The petitioner then made representations repeatedly, first of such was on **October 1, 2018**, **Annexure P-7** to the writ petition at **page 37** thereto. At least three representations were made by the petitioner from time to time contemporaneously, **Annexure P-7** and **Annexure P-8** to the writ petition. None of these representations were addressed by the relevant State authority.

The petitioner of course has a right to know his fate on the said representations with reasons.

In view of the above, the respondent No. 5 is directed to consider the said representations of the petitioner appearing at **pages 37 to 39** to the writ petition upon giving at least seven days prior hearing notice to the petitioner, respondent No. 6, respondent No. 7 and respondent No. 9 and then after giving them an opportunity of hearing shall decide the issue with its reasoned decision/order strictly in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 5 positively within a period of six weeks from the date of communication of this order and then the respondent No. 5 shall communicate his reasoned decision/order to the petitioner and all the parties mentioned above within a further period of two weeks from the date of the said reasoned order to be passed.

In the event, the reasoned order goes in favour of the petitioner, then the consequential and necessary steps shall be taken in favour of the petitioner by all the relevant respondent authorities to give effect to the said reasoned order positively within a further period of four weeks from the date of communication of the said reasoned order to the relevant respondent by the petitioner.

It is made clear that, this Court has not gone into the merit of the claim of the writ petitioner in any manner. All points are kept open for the petitioner to urge before the respondent No. 5. The petitioner will be at liberty to rely upon whatever documents and record it wishes to rely upon. Similarly the other parties also will be at liberty to rely upon whatever documents they wish to rely upon before the respondent no. 5 with their supporting materials.

The respondent No. 6 will be at liberty to be represented in the hearing before the respondent No. 5 through its authorized representative.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is submitted specifically on behalf of the petitioner that, the petitioner is still under the employment of the Defence Department.

It is further made clear that, this order shall not create any equity in favour of the petitioner, in the event, the petitioner is otherwise not eligible to receive the claim as made by him strictly in accordance with law.

On the above terms, this writ petition being **WPA 16693 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)