

15 05-12-2022
AKG
Ct. 238

WPA 15201 of 2015
Monoj Choudhury
Vs.
The State of West Bengal & Ors.

With

WPA 3687 of 2017
Minati Nag
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari,
Mr. S. M. Ali,
Mr. Sk. Imtiaj Uddin
...for the Petitioner in WPA 15201/2015
Mr. Kallol Basu,
Mr. Suman Banerjee
...for the Petitioner in WPA 3687/2017
&
...for the Respondent No. 5 in WPA 15201/2015

Mr. Monish Sen,
Ms. Oisani Mukherjee
...for College in both matters.
Mr. Supriyo Chattopadhyay,
Ms. Iti Dutta
...for the State in WPA 15201/2015

The petitioner in WPA 3687 of 2017 applied for the post of Laboratory Attendant (Group-D) at Maharajadhiraj Uday Chand Women's College in Burdwan.

The said petitioner, though belonged to OBC (B) category, admittedly, applied as a general category candidate. The benefit of age relaxation provided by the circular dated January 10, 1997 appearing at page 29 of WPA 3687 of 2017 was extended to him.

It has been submitted by the writ petitioner in

WPA 15201 of 2015 that the petitioner in WPA 3687 of 2017 was not entitled to get age relaxation of OBC (B) category since she applied as a general candidate.

The only point involved in these two writ petitions is whether the petitioner in WPA 3687 of 2017 even after applying as a general candidate was entitled to get the benefit of age relaxation applicable to an OBC (B) candidate.

The issue is covered by a judgment of the Hon'ble Supreme Court, reported at **(2010) 3 SCC 119** (***Jitendra Kumar Singh v. State of Uttar Pradesh***).

It was held in the said judgment that the reserved category candidates are not given any advantage in the selection process when they compete under the general category. The concession in fee and age relaxation only enable certain candidates belonging to the reserved categories to fall within the zone of consideration.

The concessions and relaxation place the candidates on a par with general category candidates. It is only thereafter merit of candidates is to be determined without any further concessions in favour of reserved category candidates. If a reserved category candidate, gets selected on the basis of merit, he cannot be treated as a reserved candidate. The concessions availed with regard to the age by reserved candidates had no relevance for determination inter se merit on the basis of written test and interview. Age relaxation does not amount to reservation.

Having regard to the ratio of the aforesaid judgment of the Supreme Court, there is no scope to interfere with the selection of the petitioner in WPA 3687/2017.

It has been submitted on behalf of the petitioner in WPA 3687 of 2017 that her service has already been confirmed subject to the result of WPA 15201 of 2015. The appointing authority will, therefore, be at liberty to confirm her service following this order.

Accordingly, WPA 15021 of 2015 is dismissed and WPA 3687 of 2017 is allowed.

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

(Kausik Chanda, J.)