

07.11.2022
ML-8
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19836 of 2022

**Golam Hossain
Vs.
Union of India & Ors.**

Mr. Krishnendu Banerjee,
Mr. Mohammad Idrish,
Ms. Ishani Afrin

....for the petitioner.

Mr. Uttam Basak

....for the respondent no.1.

Mr. Sukanta Chakraborty

....for the respondent nos.2 & 3.

Affidavit of service filed in Court today is retained with the records.

The petitioner challenges a panel prepared vis-à-vis advertisement dated July 17, 2012.

Mr. Banerjee, learned counsel, appearing on behalf of the petitioner submits that even though only one post for Driver-cum-Mechanic in the unreserved category was advertised, the first two candidates in the panel were appointed. The petitioner was 4th in the panel and his case was not considered.

Mr. Chakraborty, learned counsel, appearing for Bose Institute/respondent nos.2 and 3 submits that even though there was one post advertised there was a subsequent vacancy and the second candidate from the panel was also appointed. The panel

remained valid for one year. As such, there was no illegality committed by the respondent nos.2 and 3.

Learned counsel for the petitioner further submits that a vacancy cannot be filled up without subsequent advertisement.

After hearing the parties and considering the materials on record, this Court finds that the petitioner's application under Right to Information Act, 2005 was replied to on December 15, 2014 whereby the petitioner was informed that the first two candidates as per merit list in the panel had joined the services against two vacancies. The panel was prepared on the basis of an interview held on October 5, 2012 for the post of Driver-cum-Mechanic. Since the petitioner's name appeared in the 4th position, there was no provision for future appointment of the petitioner.

The petitioner has approached this Hon'ble Court at a much belated stage, i.e., almost 6 years after the appointment of the first two candidates in the panel. It is also not the case where a candidate, who was below in the rank to that of the petitioner, has been appointed. Therefore, the petitioner's name was not superseded by the respondent nos.2 and 3. As such, no relief can be granted to the petitioner such a belated stage.

The writ petition, being **WPA 19836 of 2022**, is **dismissed** without any order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)