

26.04.2022
Item no 83,84,85
Aloke/Kaushik

MAT 1162 of 2018
with
IA No. CAN 1 of 2020 (Old No. CAN 1561 of 2020)
with
IA No. CAN 2 of 2020 (Old No. CAN 1562 of 2020)

Anowara Bibi
Vs.
The State of West Bengal & Ors.

WITH

MAT 1163 of 2018

with
IA No. CAN 1 of 2020 (Old No. CAN 1571 of 2020)
with
IA No. CAN 2 of 2020 (Old No. CAN 1572 of 2020)

Lipaka Khatun (Bibi)
Vs.
The State of West Bengal & Ors.

WITH

MAT 1166 of 2018

with
IA No. CAN 1 of 2020 (Old No. CAN 1563 of 2020)
with
IA No. CAN 2 of 2020 (Old No. CAN 1564 of 2020)

Nur Nahar Khaturi Bibi
Vs.
The State of West Bengal & Ors.

Mr. S.M. Obaidullah, Advocate
Ms. Ankita Dey, Advocate
... .. For the Appellant
Mr. Pinaki Dhole, Advocate
Mr. Avishek Prasad, Advocate
... ..For the State

These three appeals along with connected applications were assigned to this Bench.

IA No. CAN 2 of 2020 (Old No. CAN 1562 of 2020), IA No. CAN 1 of 2020 (Old No. CAN 1571 of 2020) and IA No. CAN 2 of 2020 (Old No. CAN 1564

of 2020) in the three appeals are applications for condonation of delay. There is a delay of 13 days in preferring these present appeals.

For the ends of justice the causes shown in the applications for condonation of delay are accepted as sufficient and the delay in preferring the appeals is condoned.

IA No. CAN 2 of 2020 (Old No. CAN 1562 of 2020), IA No. CAN 1 of 2020 (Old No. CAN 1571 of 2020) and IA No. CAN 2 of 2020 (Old No. CAN 1564 of 2020) are accordingly disposed of.

These appeals are taken up for analogous hearing by consent of the parties..

The appeals are directed against the judgment and order dated June 14, 2018 passed by the learned Single Judge in several writ petitions heard analogously and disposed of.

The present three appeals are at the behest of the writ petitioners of three of the writ petitions being WP No. 24346(W) of 2014, WP No. 32268(W) of 2014 and WP No.32640 (W) of 2014.

By the impugned judgment and order the learned Single Judge was pleased to dismiss all the writ petitions including the writ petitions of the writ petitioners who are before the Appeal Court.

The appellants participated in a selections process for the purpose of appointment to the post of Anganwadi Helpers (AWH) under Sitai ICDS Project within the District of Cooch Behar. The advertisements in respect of the selection process was published on June 18, 2007. The appellants were empanelled in the selection process. However, the appellants did not receive any employment. In 2010, 53 empanelled candidates filed a writ petition

being WP No. 10402(W) of 2010 (Smt. Nirupama (Roy) Barman & Ors. vs. The State of West Bengal & Ors.). Such writ petition was dismissed by a judgment and order dated October 3, 2012 passed by the learned Single Judge in WP No. 10402(W) of 2010. An appeal being FMA No. 101 of 2013 was preferred therefore which was disposed of by a judgment and order dated March 22, 2013. By such judgment and order dated March 22, 2013, the Hon'ble Appeal Court, set aside the decision of the learned Single Judge. The Hon'ble Appeal Court directed the authorities to consider the claim of the appellants before their Lordships for appointment to the post of Anganwadi Helpers (AWH) against the vacancies which occurred during the validity period of the advertisement in question on or before the September 22, 2010 without any further delay but positively within a period of four weeks from the date of communication of that order. Some of the other empanelled candidates of such selection process filed five several writ petitions being WP No. 24346(W) of 2014, WP No. 24350(W) of 2014, WP No. 32640 (W) of 2014, WP No. 32268 (W) of 2014 and WP No. 24349(W) of 2014. Such five several writ petitions were decided by the judgment and order dated June 14, 2018.

The principal contention of such writ petitioners, was that, since the Hon'ble Appeal Court by the judgment and order dated March 22, 2013 directed the respondent authorities to grant appointment to the writ petitioners therein, the petitioners should also be given appointment.

The State opposed the prayer of the writ petitioners.

By the impugned judgment and order dated June 14, 2018 the learned Single Judge was pleased to dismiss the writ petitions. The learned Single Judge held that the writ petitioners were fence sitters who finally decided to file the writ petitions in 2014 seeking benefit of the judgment and order of the Hon'ble Division Bench dated March 22, 2013. At the hearing of the present appeals, the learned Advocate for the appellants did not add any other ground than what was canvassed before the learned Single Judge on behalf of the appellants, that is to say that, the appellants should also be considered for appointment in view of the judgment and order of the appeal Court dated March 22, 2013.

In the facts of the present case, the selection process was initiated in 2007.

There is no dispute that the validity of the panel was for a period of two years and after expiry of the initial period of two years the life of the panel was extended for a further period of one year. That the panel was valid till September 22, 2009 is undisputed. The initial writ petition which gave rise to the judgment and order of the Appeal Court dated March 22, 2013 was filed in 2010 after expiry of the validity period of the panel. The Appeal Court by the judgment and order dated March 22, 2013 directed the appellant before their Lordships for appointment to the vacant posts. The present appellants were not before the Writ Court of the Appeal Court at that material point of time. The present appellants approached this Hon'ble Court in 2014, by way of writ petitioners, almost a year after the judgment and order dated March 22, 2013 of the Appeal Court and after a period of almost five

years from the date of expiry of the validity period of the panel, for relief.

At the highest the appellants were empaneled candidates in a selection process. As empaneled candidates no justiciable right accrued in favour of the appellants to invoke the provisions of Article 226 of the Constitution of India. Life span of a panel is in the domain of the employees. Its life span cannot be enlarged by a writ Court. Moreover, the appellants never canvassed any of their so called rights till after five years of the expiry of the life of the panel.

There is no material irregularity in the impugned judgment and order warranting an interference by the Appeal Court. Consequently, we find no merit in the present appeal.

All the appeals and the connected applications for stay are dismissed without any order as to costs.

(Debangsu Basak, J.)

(Bivash Ranjan De, J.)