

17.11.2022
DL-76
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20532 of 2022

Ms. Bina Kerketta & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Debjyoti Basu,
Mr. Chandan Kumar Lal
....for the petitioners.

Mr. Md. Galib,
Mr. Anubrata Santra
....for the State.

In this writ petition, the petitioner, who is a Scheduled Tribe candidate, has challenged the recruitment process to the post of Staff Nurse, Grade – II. Her candidature was rejected by the impugned letter dated November 3, 2021 issued by the West Bengal Health Recruitment Board.

On the previous occasion when this Court heard the writ petition, the respondents/State authorities were directed to file a report on affidavit keeping the point of maintainability open.

Report on affidavit filed in Court today along the exception to the report is retained with the records.

Upon perusal of the report, it appears that any recruitment by the West Bengal Health Recruitment Board in the Health and Family Welfare Department, Government of West Bengal relates to a service under

the State of West Bengal and the same is governed by the Administrative Tribunals Act, 1985.

Mr. Galib, learned counsel, appears on behalf of the respondents/State and relies on an order dated August 30, 2022 by a coordinate Bench of this Hon'ble Court in WPA 18534 of 2022 (**Wahida Khatun vs. The State of West Bengal & Ors.**) whereby the recruitment process initiated by the West Bengal Health Recruitment Board, Department of Health and Family Welfare Government of West Bengal was held to be a government job.

Therefore, keeping in mind the provisions of Section 15 read with Section 28 of the Administrative Tribunals Act, 1985, it was held that this Court lacked the jurisdiction to receive, try and determine the writ petition.

Mr. Basu, learned counsel, appearing on behalf of the petitioner argues strenuously on the maintainability of the writ petition on the ground that the Administrative Tribunals Act only provides for an alternative remedy and this Court is not devoid of its jurisdiction to entertain the present writ petition. Furthermore, he submits that the decision in **Wahida Khatun** (supra) was in respect of a general candidate whereas the present writ petition is filed by a Scheduled Tribe candidate.

Having considered the rival submissions of the parties and the materials placed on record, this Court is of the view that tribunal is the appropriate forum for agitating the grievances of the writ petitioner under the Administrative Tribunals Act, 1985.

The writ petition is, therefore, **dismissed as withdrawn** with liberty to file afresh on the self-same cause of action, if permissible under the law, before the appropriate forum.

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.)