

Calcutta High Court, Scheduled Caste/Scheduled
Tribes and Other Backward Class Employees Forum &
Ors.

-vs-

The State of West Bengal & Ors.

Mr. Tulsi Das Ray,
Mr. Tirthankar Ray

....for the petitioner.

Mr. Saikat Banerjee,
Ms. Juin Dutta Chakraborty

....for the High Court Administration.

Writ petitioners eleven in numbers are the selected candidates for the post of Lower Division Assistant pursuant to the selection process initiated by the High Court Administration. The writ petitioners belong to reserved category.

Mr. Ray, learned advocate representing the writ petitioners upon placing reliance on the Notification dated 4th August, 1995 of the Hon'ble Chief Justice of the High Court at Calcutta whereby amendment has been made to the Calcutta High Court Service (Conditions of Service and Recruitment) Rules, 1960 has submitted before this Court that 100 Point Roster was introduced in the matter of identifying vacancy for recruitment of the staff of the High Court.

In addition thereto on behalf of the petitioners reliance has been placed on Section 4 of the West Bengal Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1976 wherein it has been provided that there is a requirement of making 22 per cent reservation for Scheduled Caste candidates and reservation of 6 per cent in favour of the Scheduled Tribe candidates. It has also been provided in sub-section (2) of Section 4 that the reserved candidates qualifying on merit for appointment to any unreserved vacancy in a service or post in any establishment to be filled up by direct recruitment and such recruitment shall have no impact on the quota reserved in such service or post.

Placing reliance on the Notification dated 4th August, 1995 and Section 4 of the Act of 1976 on behalf of the petitioners it has been contended that a select list was prepared in the year 2001 without following 100 Point Roster and it has further been submitted that had there been compliance of 100 Point Roster in preparing such select list petitioners' position in the said list would have been upgraded that would facilitate the petitioners in getting the benefit of future

promotions. Since the petitioners were placed at the bottom of such select list their right to get promotion is being unnecessarily deprived of.

Mr. Banerjee, learned advocate appears on behalf of the High Court Administration and at the threshold he has submitted that the appointment order was issued on 10th December, 2001 by the competent authority of the High Court at Calcutta pursuant to the approval accorded by the then Hon'ble the Chief Justice on 12th November, 2001 and by filing the writ petition on 4th December, 2020 attempt has been made to rectify such appointment order dated 10th December, 2001 on the plea that there was failure on the part of the High Court Administration in observing 100 Point Roster while preparing the select list. It has also been submitted that barring two representations one dated 5th November, 2008 and another dated 12th January, 2009 and one legal notice prior to filing of the writ petition dated 2nd January, 2020, no steps were taken by the writ petitioners contemporaneously for redressal of their grievance. It has been submitted that due to efflux of time the claim of the petitioners has become stale and due to delay and acquiesce, at this belated stage the

prayer of the writ petitioners cannot be entertained. In support of such submission reliance has been placed on the decision of the Hon'ble Supreme Court, reported in (2007) 9 SCC 278 (New Delhi Municipal Council –vs- Pan Singh & Ors.).

On behalf of the High Court Administration in order to satisfy the query of this Court a copy of the letter dated 19th October, 2001 addressed to the then Hon'ble Chief Justice written by two Hon'ble Judges is placed before this Court.

On perusal of such letter dated 19th October, 2001, it appears that a list of selected candidates was prepared after completing selection process based on merit and it has also been indicated therein that the seniority of the candidates shall be determined by the order of merit in which they are placed in the selection list. On scrutiny of such select list, it appears that there are reserved candidates of different categories whose names featured therein.

Since such select list was prepared in the year 2001 and today this Court is considering the issue on the basis of the writ petition filed after nineteen years, it is too late in the day to enter into the issue of observance of 100 Point Roster while

preparing such select list for appointment in the posts of LDA.

This Court has also relied upon paragraphs 16, 17 & 18 of New Delhi Municipal Council (supra) wherein the Hon'ble Supreme Court in no uncertain terms has enunciated the position of law very clearly that after the delay of 17 years issue raised in the writ petition cannot be considered due to laches and acquiesce. Since in the present case writ petitioners have approached this Court after an interval of 19 years and by this time the select list prepared by the High Court Administration has been given effect to by offering appointment to the selected candidates in the year 2001 including the petitioners, no relief can be granted to the petitioners.

Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

The copy of the letter dated 19th October, 2001 written by the then two Hon'ble Judges of this Court addressed to the then Hon'ble the Chief Justice, High Court, Calcutta is taken on record and the same shall be preserved in a sealed cover

with a rider that certified copy of such letter dated 19th October, 2001 shall not be issued without the leave of the Court.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)