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16.1.2023
S.D.

W.P.A. 318 of 2023

Supratim Mukherjee
Vs.
West Bengal State Electricity Distribution
Company Limited & Ors.

Mr. Durga Prasad Dutta
Mr. Sumanta Ganguly
Mr. Souvik Sen
Ms. Aditi Dutta

...For the petitioner

Mr. Debanjan Mukherjee

..For the WBSEDCL

In this writ petition, the petitioner applied for recruitment to the post of an Office Executive of the West Bengal State Electricity Distribution Company Limited (in short, WBSEDCL). The petitioner applied for recruitment pursuant to an advertisement dated December 22, 2018. The petitioner qualified in the computer test and also got selected in the personal interview. However, the petitioner's candidature was rejected by an office order dated November 18, 2022 as he was declared temporarily '**unfit**' due to high Myopia.

Mr. Dutta, learned counsel appearing on behalf of the petitioner submits that after the said rejection letter, the petitioner underwent Lasik Laser Surgery for correction of his

eyesight. He prayed for reconsideration of his candidature vide representation dated November 24, 2022 made to the respondent no. 2/the General Manager (HR & A), WBSEDCL.

Such representation has not been considered till date.

Furthermore, another representation was made on December 13, 2022 for reconsideration of his candidature by the respondent no. 2.

Mr. Mukherjee, learned counsel appearing on behalf of the WBSEDCL submits that the writ petition is not maintainable as all the terms of the advertisement have been complied with by the respondent/WBSEDCL. He draws the attention of this Court to the other conditions of the Employment Notification annexed at page 27 of the writ petition in support of his contention that the decision of WBSEDCL pertaining to pre-employment medical test report will be final and binding on the candidate. Therefore, it is against the regulations of the company to reconsider the candidature of the petitioner.

He also submits that once the prayer for reconsideration is allowed, the same will open floodgates unnecessarily and cause immense inconvenience to the employer. He also refers to the guidelines of the company dated May 6, 2010 regarding the norms and standards for

medical fitness. A copy of the guidelines as handed over in Court today is retained with the records.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that;

- a. The number of vacancies in respect of the Office Executive are 745. There may be a possibility of all the posts not being filled up as on date.
- b. The petitioner after qualifying for the interview went for pre-employment medical examination.
- c. After being found temporarily '**unfit**', he went for Lasik Laser Surgery.
- d. No prejudice or grave inconvenience will be caused to the employer in the event the petitioner's candidature is reconsidered as per the regulations and guidelines of the company and the petitioner is sent for another pre-employment medical examination since he was temporarily UNFIT.

In the light of the discussions above, this Court directs the order dated November 18, 2022 be set aside and the representation dated December 13, 2022 be considered by the respondent no. 2/General Manager (HR & A) within six weeks from date upon giving a personal hearing to the

petitioner. A reasoned order be passed and communicated to the petitioner within two weeks of passing thereof.

Needless to mention that in the event all the posts are not filled up as on date, one post of Office Executive will be kept vacant till such time the representation of the petitioner is considered and disposed of.

This order is passed in view of the peculiar facts and circumstances of the case.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained in the writ petition are deemed not to have been admitted by the parties.

With the directions aforesaid, **W.P.A. 318 of 2023** is **disposed of**.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)

