

25.04.2023
DL-56
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 2654 of 2022

Jamiruddin Ahamed & Anr.
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Ekramul Bari,
Mr. Syed Mansur Ali,
Ms. Tanuja Basak

....for the petitioners.

Mr. Srijan Nayak,
Ms. Rituparna Maitra

....for WBSEDCL.

In the present writ petition, the writ petitioners have sought for a direction upon the respondents to grant employment to the petitioner no.2 in terms of an order dated March 1, 2016 passed by a Coordinate Bench of this Hon'ble Court in WP 2685 (W) of 2016. The said writ petition was filed by the petitioner no.1. By the said order dated March 1, 2016, the petitioner no.1's son, being the petitioner no.2 was directed to be considered by the respondent no.1/West Bengal State Electricity Distribution Company Limited (in short "WBSEDCL") as a candidate being eligible for appointment in lieu of the land sold by the predecessor-in-interest of the petitioners, at a concessional rate. By the said order, the candidature of the petitioner no.2 herein, was required to be

considered in relevant recruitment process by giving “maximum weightage as a reserved category candidate with the maximum concession permissible under the rules, irrespective of whether the candidate is eligible for such concession.”

Mr. Bari, learned counsel appearing on behalf of the petitioners submits that despite such directions, the respondent authorities have not considered the candidature of the petitioner no.2 by giving maximum relaxation as a reserved category candidate.

Mr. Nayak, learned counsel appearing on behalf of WBSEDCL submits that the petitioner no.2 was more than 32 years on the date of his application and, therefore, he was clearly not eligible under the 2010 recruitment policy of the corporation. He submits that the maximum relaxation for a OBC candidate was 3 years. In the event such relaxation was given to the petitioner no.2, he would still be more than 30 years at the material point in time of making of the application. The age limit for only SC and ST candidates was 32 years. It is admitted in the report-on-affidavit that the candidates who apply for TSH (Trainee)/OSH posts have an age bar of 30 years for General candidates, 33 years for OBC and 35 years for SC/ST candidates.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that pursuant to the order passed by the Coordinate Bench of this Hon'ble Court on March 1, 2016, the candidature of the petitioner no.2 should have been considered as a reserved category candidate with the maximum concession permissible under the rules whether or not the candidate was eligible for such concession. Since the maximum age relaxation for SC/ST candidate was 35 years, the same should have been considered by the respondent-corporation/WBSEDCL while considering the application of the petitioner no.2. The date on which the application had been made was December 30, 2011 and the age of the petitioner no.2 as on the date of such application should have been considered by WBSEDCL. It is evident that the prayer/application for appointment was made long prior to the filing of WP 2685 (W) of 2016 and WP 26776 (W) of 2012. By the order dated March 1, 2016 only bio-data indicating age, educational qualifications was required to be submitted in connection with application previously made. Therefore, the Senior Manager (HR & A), ES & ER-II Cell misdirected himself by holding that the date of the application was March 3, 2016 instead of the date

of the original application being December 30, 2011 received on January 2, 2012. Not only the age relaxation upto 35 years should have been given to the petitioner no.2 but his candidature/age limit as on December 30, 2011 should have been considered. The restrictive interpretation given by the respondent authorities cannot render the Hon'ble Court's order nugatory.

From the written instruction dated April 25, 2023 handed over in Court today, it appears that the Additional General Manager (HR & A) has considered the age of the petitioner no.2 as on March 3, 2016.

This Court is of the view that the date of the application as on December 30, 2011 should have been considered by the concerned authorities since the prayer was originally made by the petitioner no.1 on that date. The view of this Court finds support in a decision of the Apex Court reported in (1990) 2 SCC 669 (**A. P. Public Service Commission, Hyderabad & Anr. vs. B. Sarat Chandra & Ors.**).

In such view of the matter, the respondent no.3/the Director (HR), WBSEDCL is directed to consider the prayer for recruitment of the petitioner no.2 pursuant to the previous order of the Hon'ble Coordinate Bench dated March 1, 2016 within 6 weeks from date upon giving a personal hearing to the

petitioner. Such reasoned order shall be communicated within 2 weeks of passing thereof. If the petitioner is otherwise found entitled like a reserved category candidate he should be immediately considered for appointment in a suitable post within 2 months from date.

The written instruction handed over in Court today by Mr. Nayak is retained with the records.

With the directions aforesaid, **WPA 2654 of 2022** is **disposed of**.

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.)