

12.10.2023
Item No.4
Ct. No.5
CHC
(dismissed)

WP.ST 62 of 2010
IA NO: CAN/1/2023

Sri Debasish Ghosh
Vs.
State of West Bengal & ors.

Mr. Sudip Krishna Dutta,
Mr. Kunal Ganguly,
Mr. Tirupati Mukherjee
...for the writ petitioner

Md. T. M. Siddiqui, Ld. A.G.P.
Mr. Supratim Dhar
...for the State

In Re: CAN/1/2023

CAN/1/2023 is an application for restoration.

For the ends of justice and in view of the pleadings made in the application, the order of dismissal dated July 19, 2023 is recalled.

WP.ST 62 of 2010 is restored to its original file and number.

CAN/1/2023 is **disposed of**.

In Re: WP.ST 62 of 2010

The writ petitioner assails an order dated January 28, 2010 passed in O.A.499 of 2006 by the West Bengal Administrative Tribunal.

By the impugned order, the Tribunal rejected the application of the writ petitioner.

The writ petitioner participated in a selection process for the recruitment of Constable in the District of Purulia. The writ petitioner claims that he was successful in the selection process with his name being listed in the panel prepared for such purpose. Subsequent to the publication of the panel, on the basis of a fictitious complaint, State conducted an enquiry and the writ petitioner was asked to appear for the second time in the physical test where he was declared unfit.

Learned advocate appearing for the writ petitioner submits that, calling the writ petition for second physical test was arbitrary and that, it was without any sanction of law.

Learned advocate appearing for the writ petitioner draws attention of the Court to the order dated June 18, 2008 passed by the Tribunal disposing of the Original Application. He submits that, a writ petition was filed assailing such order being WPST 1196 of 2008 which was disposed of by an order dated November 28, 2008 setting aside the impugned order of the Tribunal. The Tribunal was directed to decide the Original Application finally, afresh.

Learned advocate appearing for the writ petitioner draws attention of the Court to the impugned order. He submits that, by the impugned

order, the Tribunal reiterated the earlier stand as recorded in its order dated June 18, 2008. No further reason was ascribed as to why the writ petitioner was entitled to relief.

Learned advocate appearing for the State draws attention of the Court to the affidavit filed by the State in the earlier round of the writ petition.

It appears from the records that, the writ petitioner participated in the selection process meant for the recruitment for Constable in the District of Purulia.

Apparently, he was enlisted as a successful candidate and thereafter delisted on the basis of further enquiry being conducted by the State.

The stand of the State is that, in respect of the selection process of Constable in the District of Purulia, complaints were received. Such complaints were enquired into and it was found that certain participants obtained undue benefits. Consequently, the participants identified as obtaining wrongful benefits were called for a second physical examination.

In the facts of the present case, the writ petitioner participated in the second physical test unconditionally. On his second participation, he was found to be unsuitable.

We find from the records that, the participation of the writ petitioner in the second round of examination was unconditional. The writ petitioner now cannot be allowed to turn round to say that, his disqualification on the second round of examination, was arbitrary or without any basis.

Tribunal proceeded on the basis of such premise.

We find no material irregularity in the impugned order.

In such circumstances, WP.ST 62 of 2010 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)