

DL-11

22.08.2023
Court No.5
(AD)

WP.ST 62 of 2012

**Renu Ghosh & Ors.
Vs.
State of West Bengal & Ors.**

*Mr. Sudip Krishna Dutta
Mr. Kunal Ganguly
... for the petitioners.*

*Mr. Pinaki Dhole
Mr. Avishek Prasad
... for the State.*

The writ petition is directed against an order dated January 5, 2012 passed by the West Bengal Administrative Tribunal in OA 587 of 2010.

By the impugned order, the Tribunal directed the respondent no.1, that is, the State of West Bengal to dispose of the original application being No.OA-587 of 2010 treating it to be a representation within 20 weeks from the date of communication of the order after giving an opportunity of personal hearing of the writ petitioner.

Learned Advocate appearing for the writ petitioners submits that, the writ petitioners are similarly situated and circumstanced with that of the writ petitioners of WP.ST 376 of 2006.

Learned Advocate appearing for the writ petitioners submits that, by an order dated July 30, 2008, the High Court directed the authorities to grant employment to the 11 writ petitioners in WP.ST 376 of

2006. A review application was filed at the behest of the State which was disposed of by an order dated August 1, 2008 without altering the order dated July 30, 2008. The 11 writ petitioners comprised of in WP.ST 376 of 2006 were granted employment. The writ petitioners being similarly situated and circumstanced as that of those 11 writ petitioners are entitled to same benefit.

State is represented.

The writ petitioners herein are absolute fence sitters as it would be from the facts adumbrated herein. The writ petitioners filed an original application being OA-1001 of 1996 in which an order dated July 20, 1998 was passed. Thereafter, they chose not to canvass their rights subsequently. Subsequent to July 20, 1998, various original applications were filed as also writ petitions before the High Court. The writ petitioners did not join therein.

The writ petitioners are claiming rights as being similarly situated and circumstanced as that of the writ petitioners in WP.ST 376 of 2006.

The writ petitioners were not parties to WP.ST 376 of 2006. They were not the parties before the Tribunal which resulted in the order dated July 30, 2008 passed in WP.ST 376 of 2006. In any event, the writ petitioners cannot claim negative equality.

The writ petitioners not availing of their remedies at the appropriate stage, it would be not proper to direct

the authorities to consider and dispose of the original application as a representation. Moreover, an authority can dispose of a representation if the claims made therein are valid or if the authority is vested with the power to decide on such representation. No legal right of the writ petitioners is established to be infringed.

In such circumstances, **WP.ST 62 of 2012** is disposed of by setting aside the direction for consideration contained in the impugned order.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

