

25.08.2023
Item No.11
Ct. No.5
CHC
(disposed of)

WP.ST 147 of 2010
IA NO: CAN/1/2012(Old No:CAN/9120/2012)

Shri Dinabandhu Chongdar
Vs.
The State of West Bengal & ors.

Mr. Tanmay Chowdhury,
Ms. Ritoprita Ghosh
...for the writ petitioner

Mr. Tapan Kr. Mukherjee, Sr. Advocate & A.G.P.
Ms. Sangeeta Roy,
Mrs. Tuli Sinha
...for the State

The writ petition is directed against an order dated August 27, 2009, passed in O.A.203 of 2005.

Two original applicants approached the West Bengal Administrative Tribunal by way of O.A.203 of 2003. One being the writ petitioner before us and the other being Hari Madhab Chakraborty. Being aggrieved by the order dated August 27, 2009 passed by the Tribunal in O.A.203 of 2005, Hari Madhab Chakraborty filed a writ petition being W.P.S.T.54 of 2010. The writ petitioner being the co-applicant in O.A.203 of 2005 filed the present writ petition.

The writ petition of Hari Madhab Chakraborty being W.P.S.T.54 of 2010 was disposed of by an order dated March 1, 2012. By such order, the Director of Fisheries, Government of West Bengal was directed to consider the case of the writ petitioner

in the changed circumstances and to dispose of the same by passing a speaking and reasoned order within two months from the date of communication of such order to him, without being influenced by any observation made by the Tribunal in the impugned order.

The Director of Fisheries by its order dated June 28, 2012 turned down the prayer of Hari Madhab Chakraborty for appointment. A writ petition was filed challenging such order being C.P.A.N.1181 of 2012 in WPST 54 of 2010. Such contempt petition was disposed of by an order dated August 23, 2012 holding that contempt jurisdiction cannot be invoked as Hari Madhab Chakraborty was with a fresh cause of action. Hari Madhab Chakraborty approached the Tribunal and filed Original Application being O.A.1401 of 2012 challenging the order of the Director of Fisheries. Such Original Application was disposed of by order dated April 1, 2013 by negating the claim of Hari Madhab Chakraborty.

Hari Madhab Chakraborty approached the High Court by way of WPST 262 of 2013 challenging the order dated April 1, 2012 passed in O.A.1401 of 2012. Such writ petition was disposed of by order dated January 28, 2014. The High Court quashed the order dated June 28, 2012 of the Director of Fisheries and set aside the order of the Tribunal dated April 1,

2013 passed in O.A.1401 of 2012. The High Court directed the authorities to appoint Hari Madhab Chakraborty to the post of Fisheries Development Assistant without any further delay positively within a period of three weeks from the date of communication of such order subject to completion of necessary formalities if there be any.

The State filed a Review Petition against the order dated January 28, 2012 passed in W.P.S.T.262 of 2013 being R.V.W.210 of 2014 which was disposed of by an order dated March 10, 2017 rejecting the prayer for review.

Special Leave Petition directed against the order passed by the High Court on review was dismissed on August 28, 2017.

Learned Senior Advocate appearing for the State submits that age of the writ petitioner is presently 59 years.

Despite such age of the writ petitioner we find that the writ petitioner is entitled to the relief in view of the writ petitioner being the co-applicant in O.A.203 of 2005 where, other co-applicant namely, Hari Madhab Chakraborty was granted relief. The writ petitioner cannot be denied the relief simply on the ground of his age.

The writ petitioner before us similarly situate and circumstanced as that of Hari Madhab

Chakraborty. The writ petitioner was the co-applicant in Original Application being O.A.2203 of 2005. The writ petitioner, therefore, cannot be denied the same relief as that of Hari Madhab Chakraborty.

In such circumstances, the State authorities are directed to appoint the writ petitioner to the post of Fisheries Development Assistant without any further delay but positively within a period of three weeks from the date of communication of this order subject to completion of necessary formalities.

WP.ST 147 of 2010 along with connected application are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)