

ML-36

05.06.2023
Court No.5
(AD)

WP.ST 51 of 2023

Asha Rajak
Vs.
Disaster Management and Civil Defence Department &
Ors.

Mr. Dibyendu Chatterjee
Mr. Pritam Majumder

... for the petitioner.

Mr. Tapan Kumar Mukherjee
Ms. Saheli Mukherjee

... for the State

In assailment is an order dated March 6, 2023 passed by the West Bengal Administrative Tribunal in OA-22 of 2023.

By the impugned order, the Tribunal found the final gradation list not to contain any infirmity as alleged by the writ petitioner. The original application of the writ petitioner was dismissed by the impugned order.

Learned Advocate appearing for the writ petitioner submits that, the impugned order fails to take into consideration the fact that, the name of the other employee was not appearing in the three previous gradation list of 2013, 2017 and 2019. Moreover, the learned Tribunal failed to take into consideration the fact that, the other employee did not have requisite permission to take the Madhyamik Examination. According to him, the other employee could not have been placed in Serial no.4 over the writ petitioner.

Learned Senior Advocate appearing for the State submits that, the other employee was not made a party in the original application. However, the other employee was given compassionate appointment as that of the writ petitioner. The other employee was given such compassionate appointment in the year 2007 while the present writ petitioner was given the employment in 2013 both on compassionate ground. According to him, the educational qualification for the Group-D post where both the writ petitioner and the other employee were given compassionate appointment is Class-VIII pass. Both the petitioner and the other employee possessed requisite educational qualification for such purpose. Since the other employee was given appointment in 2007 which is much prior to the grant of the appointment to the writ petitioner, the other employee was placed at the appropriate place in the gradation list. The objection of the writ petitioner is, therefore, according to him without any basis.

We considered the materials placed before us in light of the contentions raised by the respective advocates as noted above.

The writ petitioner assailed a gradation list published by the authorities in 2022. In such gradation list, an employee was placed at Serial No.4. Placement of such employee at Serial No.4 in such gradation list was made a subject-matter of challenge in the original application. By the impugned order, the Tribunal was pleased not to accept

the contention of the writ petitioner.

The other employee who was placed Serial No.4 in the gradation list of 2022 was not made party-respondent in the original application. Such employee is also not a party-respondent in the present writ application.

Be that as it may, it is undisputed that both the writ petitioner and the other employee received appointment on compassionate ground in Group-D posts. The other employee received the compassionate appointment in 2007 while the writ petitioner received the same in 2013. Educational qualification for the post in which both the writ petitioner and the other employee were granted compassionate appointment is Class-VIII pass. Therefore, the issue as to whether the other employee received requisite permission to sit for the Class-X examination is immaterial in the facts and circumstances of the present case.

In the facts and circumstances of the present case, both the writ petitioner and the other employee are of the requisite educational qualification to receive appointment to the Group-D post on compassionate ground. The other employee received such appointment in 2007 and was, therefore, justly placed in the gradation list prior to that of the writ petitioner.

The challenge of the writ petitioner to the placement of the other employee in the gradation list as contended is without any basis.

In such circumstances, we find no merit in the present application.

WP.ST 51 of 2023 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

