

16.
18.5.2023
S.D.

W.P.A. 9886 of 2023

**Koushik Sarma
Vs.
The State of West Bengal & Ors.**

Mr. Jayanta Samanta
Ms. Karunamoyee Samanta
Ms. Dona Sanyal
... For the petitioner

Ms. Tapati Samanta
..For the State

Affidavit of service filed in Court today is retained with the records.

The petitioner applied for a Group – ‘D’ post under the District Judgeship of Paschim Bardhaman. The petitioner’s name appeared in the list of provisionally selected candidates for the post of Group – ‘D’ that was published on April 5, 2022. The petitioner was placed at serial no. 1 in the waiting list for Unreserved Category. The vacancies that arose for UR (PH) and OBC-B (Ex-Servicemen) Category remained unfulfilled.

It is petitioner’s case that the reservation for UR (Physically Handicapped) Category is a horizontal

reservation and not a vertical reservation. Such a vacancy cannot be carried forward.

Mr. Samanta, learned counsel appears on behalf of the petitioner submits that if a suitable candidate is not available who is eligible for horizontal reservation then such vacancy may be filled up from the merit list of the other available candidates. Therefore, since UR (PH) category candidate was not available, the vacancy should have been reverted to UR Category and the same should have been filled up. He refers to a judgement reported in (2007) 8 SCC 785 (**Rajesh Kumar Daria vs. Rajasthan Public Service Commission & Ors.**)

Ms. Samanta, learned counsel appears on behalf of the State respondents.

Considering the submissions of the parties and the materials placed on record, this Court directs the representations of the petitioner dated July 8, 2022 and November 1, 2022 be considered by the District Judge, Paschim Bardhaman/the respondent no. 2 or any other appropriate authority delegated by him within a period of 6 weeks from date upon giving an opportunity of hearing to the petitioner. The decision of **Rajesh Kumar Daria** (supra) shall be considered while considering the representations of the petitioner.

The reasoned order shall be passed and communicated to the petitioner within two weeks of passing thereof.

With the directions aforesaid, **W.P.A. 9886 of 2022** is **disposed of**.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained in the petition are deemed not to have been admitted by the parties.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)