

1
18.10.2023
D.Hira
Court No. 12

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

MAT 702 of 2016

**Swapan Mukhopadhyay & Ors.
Versus
State of West Bengal & Ors.**

**Mr. Nandita Bakshi.
... for the appellants**

**Mr. Ayan Banerjee,
Ms. Debasree Dhamali.
... for the S.B.S.T.C.**

The present appeal is filed challenging the order dated 29.01.2016 made in writ petition no. W.P. 13935 (W) of 2012 disposing the writ petition without any order in favour of the appellants.

Heard Ms. Nandita Bakshi, learned counsel appearing for the appellants and Mr. Ayan Banerjee, learned counsel appearing for the respondents and perused the entire materials on record.

From the materials on record it is seen that appellants were sponsored by employment exchange for being considered for appointment of daily-rated conductors in South Bengal State Transport Corporation in the year 1998. The appellants attended the interview. According to the appellants, they were

not informed the result of the interview and they were not given any appointment. They filed writ petition being W.P. no. 12212 (W) of 2011. Before this Court in the said writ petition the appellants restricted their claim to consider the representation of the appellants. The respondent no. 3 considered the representation of the petitioner and by order dated 13th May, 2012 rejected the claim of the appellants. The appellants filed the present writ petition challenging the said order.

While the said writ petition was pending the respondents in the year 2014 initiated proceedings for appointment of conductors. The appellants filed writ petition being W.P. No. 7074 (W) of 2014 seeking relief of restraining the respondents from proceeding with said recruitment. This Court dismissed the said writ petition. Subsequently the present writ petition was taken up for hearing and the same was disposed of without any order rejecting the relief sought for by the appellants on the ground of delay in approaching the Court for getting redressal of their grievances.

Against the said order the appellants have come out with the present appeal.

The appellants have raised various grounds in the present appeal.

Learned counsel for the appellants contended that appellants being sponsored by the employment

exchange for appointment in the year 1998, they were not sponsored subsequently by the employment exchange for any other post. After order of this Court directing the respondents to consider the representation, the third respondent in arbitrary manner rejected the representation of appellants. The delay is only due to attitude of the respondents and not due to appellants. The learned Judge without considering the entire materials erroneously rejected the claim of the appellants on the ground of delay and laches and prayed for setting aside the order of the learned Single Judge.

Learned counsel appearing for the respondents submitted that recruitment process in the year 1998 was dropped and no merit list was prepared and no appointment was made in view of that selection. In view of the same, the appellants are not entitled to any relief. The appellants attended interview in the year 1998. Subsequently the respondents dropped the proceedings. The appellants approached the respondents by way of representation only from 2007, 2008 and 2009 after lapse of nine years, ten years and eleven years and they cannot shift the liability on the appellants and make a demand for appointment. The learned Judge considered the entire materials and rejected the claim of the appellants. The appellants

have not made out any case for the appointment and prayed for dismissal of the appeal.

We have considered the above materials carefully in detail and we hold that the appellants failed in the appeal on the ground of delay and laches. The appellants were sponsored by employment exchange in the year 1998. When no merit list was prepared and the appellants did not get any appointment order, they gave representation only in the year 2007, 2008 and 2009. Even after they did not take any further action but filed writ petition only in the year 2011. Even in the said writ petition they confined their relief only to consider their representation given in the year 2007, 2008 and 2009. As per the order of this Court dated November 15, 2011 in writ petition no. W.P. 12212 (W) of 2011, the respondent no. 3 considered the request of the appellants and rejected the claim.

From the above materials it is clear that appellants were not vigilant enough in getting their relief within a reasonable time.

The contention of the learned counsel for the appellants that only in the district Purulia no merit list was prepared and the respondents prepared merit list for other district was not supported by any documents.

The contention of the learned counsel for the respondents that entire process was dropped, is not disputed by the appellants.

In view of the same, the appellants are not entitled for any relief.

The learned Judge considered the materials on record and disposed of the writ petition without granting any relief.

The appeal fails and dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)