

28.06.2023
Item No.20
Ct. No.5
CHC

W.P.S.T.165 of 2013
IA NO: CAN/1/2018 (Old No:CAN6935/2018)

Sri Arabinda Mondal
Vs.
The State of West Bengal & ors.

Mr. Debabrata Saha Roy,
Mr. Supriyo Chattopadhyay,
Mr. Sudip Kr. Maiti
...for the writ petitioner

Mr. Tapan Kr. Mukherjee, Sr. Advocate & A.G.P.
Mr. Pinaki Dhole,
Mr. Abhisek Prasad
...for the State

The writ petition is directed against an order dated July 11, 2006 passed by the West Bengal Administrative Tribunal in O.A.992 of 2004.

Learned Senior Advocate appearing for the State submits that, there are unexplained delay of over a period of seven years in preferring the present writ petition. He draws attention of the Court to the fact that, even there was a delay in filing the Original Application before the Tribunal. He submits that, since the delay remains unexplained the writ petition need not be entertained.

Learned advocate appearing for the writ petitioner submits that, the writ petitioner participated in the selection process in the post of Constable in Kolkata Police. He draws the attention of

the Court to the factual matrix of the case. He submits that, initially the selection process was assailed. An Original Application was filed with regard to the selection process being O.A.1538 of 1997. The order passed by the Tribunal was assailed by way of writ petition being W.P.S.T.352 of 1999 by the State. Such writ petition was dismissed. The original applicant therein was granted relief. A Special Leave Petition directed against the order dated July 24, 2003 of the High Court was dismissed.

Thereafter, a slew of original applications were filed before the West Bengal Administrative Tribunal. In the second trunch of litigation, an order granting relief to the original applicant was passed by the Tribunal. Such order was again assailed by the State before the High Court. The challenge was not sustained. Supreme Court dismissed the Special Leave Petition.

In the third round of litigation, the Division Bench granted certain reliefs to the original applicant. He submits that, since the petitioner filed the Original Application in 2004, the petitioner should be treated at par with the second and third round of litigants and granted the same relief as those of such original applicants of the second and third round of litigations.

The crucial issue in the present case is one of delay. The impugned order before us is dated July 11, 2006 passed by the Tribunal. The writ petitioner approached the High Court in 2013. Although, the provisions of Limitation Act, 1963 are not attracted, so far as proceeding under Article 226 of the Constitution is concerned, nonetheless a writ petitioner is required to explain the delay in approaching the High Court. In the facts of the present case, the writ petitioner relies upon medical documents to claim that the writ petitioner was unwell for the given period when, the writ petitioner did not approach the High Court.

As noted above, the period involved is between July 11, 2006 being the date of the impugned order by the Tribunal and May 2, 2013 when the writ petition was presented before the High Court. The period is about seven years.

In order to explain delay of seven years, the writ petitioner relies upon medical documents annexed to the writ petition. The medical documents suggest that the writ petitioner was receiving medical attention sporadically from the period 2006 to 2011. At least for a period subsequent to 2011 till the date of filing of the application, there is no medical document annexed to the writ petition.

The writ petitioner may be receiving medical attention for the period from 2006 to 2011, albeit, sporadically. There is no explanation why the writ petitioner did not approach the High Court, between the period when, he was not receiving medical attention during such period of time. It is not case of the writ petitioner that the medical condition was such that he was unable to contact his advocate from the date of the impugned order till he approached the High Court.

In the facts of the present case, we find the period of seven years in approaching the High Court, remains unexplained. We therefore, are not minded to extend the discretionary relief under Article 226 of the Constitution of India to the writ petitioner.

Apart from the delay in approaching the High Court, one other aspect prompt us not to grant any relief to the writ petitioner. The age of the writ petitioner is presently about 47 years with the date of birth of the writ petitioner being August 27, 1976.

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

W.P.S.T. 165 of 2013 along with IA NO: CAN/1/2018(Old No:CAN/1299/2018) are dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)