

08.12.2023
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MAT 1134 of 2023
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IA No.: CAN No. 1 of 2023
**West Bengal State Electricity Distribution
Company Limited & Others**
– Versus –
Jamiruddin Ahamed & Another

Mr. Jaydip Kar,
Dr. Madhusudan Saha Roy
... for the Appellants.

Mr. Ekramul Bari,
Ms. Tanuja Basak
... for the Respondents.

The present appeal has been preferred by the West Bengal State Electricity Distribution Company Limited (in short, WBSEDCL) and its functionaries challenging the order dated 25th April, 2023 passed in a writ petition being WPA 2654 of 2022.

Records reveal that the writ petition, being WPA 2654 of 2022 was preferred *inter alia* praying for a direction upon the respondents/appellants herein to grant employment to the writ petitioner no.2/respondent no.2 herein in terms of an order dated 1st March, 2016 passed in the earlier writ petition, being WP 2685 (W) of 2016. The operative portion of the said order dated 1st March, 2016 runs as follows:

‘Accordingly, WP 2685 (W) of 2016 is disposed of by permitting the petitioner or the petitioner’s son to furnish his bio-data, indicating his age, educational qualifications and the like to the Senior Manager (HR&A), Employee Services & ER-II of the Distribution

Company within a week from date. Such official along with the Director (HR) of the Distribution Company will be obliged to inform both the petitioner and the petitioner's son of the next recruitment conducted by the Distribution Company whereat the petitioner's son may be eligible to apply. The candidature of the petitioner's son in the relevant recruitment process will be considered by giving him weightage as a reserved category candidate with the maximum concession permissible under the rules, irrespective of whether the candidate is eligible for such concession.

If after all that, the petitioner's son is unable to qualify for appointment, nothing further need be done.'

Drawing our attention to the averments made in the report filed by the appellants in the writ petition, Mr. Kar, learned senior advocate appearing for the appellants submits that as per the Recruitment Policy, 2010 for the post of Office Executive (previously Assistant), the respondent no. 2 was not qualified.

However, the writ petition being WPA 2654 of 2022 was opposed by the appellants herein submitting *inter alia* that the respondent no.2 '*was more than 32 years of age on the date of his application and, therefore, he was clearly not eligible under the 2010 recruitment policy*' of WBSEDCL.

Such contention was rightly negated by the Court and matter was relegated to the appellant no.3 for

consideration observing *inter alia* that the prayer/application for appointment was made long prior to the filling of WP 2685 (W) of 2016 and WP 26776 (W) of 2012 and that *'not only the age relaxation upto 35 years should have been given to the petitioner no.2 but his candidature /age limit as on 30th December, 2011 should have been considered'*.

Mr. Bari, learned advocate appearing for the respondents submits that the appellants are under an obligation to comply with the directions contained in the order dated 1st March, 2016 and the learned Single Judge has rightly directed the appellants to consider the claim of the respondent no.2 negating the issue of age bar.

In the conspectus of facts and at this stage, the argument of Mr. Kar that no recruitment process was initiated in which the respondent no.2 was qualified to apply and that as such the learned Single Judge erred in law in relegating the matter to the respondent no.3 for consideration, is not acceptable to us.

In view thereof, no interference is called for in the present appeal.

The appeal along with the connected application is dismissed.

There shall, however, be no order as to costs.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)