

17.07.2023
Item No.3
Ct. No.5
CHC

W.P.S.T.74 of 2021

**Sekh Sarifuddin
Vs.
The State of West Bengal & ors.**

Mr. Harishankar Chattopadhyay
...for the petitioner

Mr. Tapan Kr. Mukherjee, Sr. Advocate & A.G.P.
Mr. Somnath Naskar
...for the State

Petitioner is aggrieved by denial of employment in a selection process.

Petitioner approached the Tribunal along with others by way of Original Application being O.A.572 of 2015.

Three Original Applications, namely, O.A.572 of 2015, O.A.574 of 2015 and O.A.575 of 2015 were heard and disposed of by the Tribunal on September 13, 2018.

As noted above, petitioner is a party in O.A.572 of 2015. Petitioner did not assail the order dated September 13, 2018 passed in O.A.572 of 2015 in the present writ petition.

None the less, the petitioner seeks a direction upon the authorities to grant the petitioner

employment and not to disqualify the petitioner on the basis of over-age.

A selection process for Group-D staff was initiated. Petitioner participated therein as a general category candidate. The cut off of age in respect of general category candidate was fixed at 37 years. Petitioner admittedly was over-aged on the date of the interview.

The fact that the petitioner is over-aged on the date of the interview is not disputed. What is claimed is that some other persons received employment who were over-aged, therefore, the petitioner should also receive the employment.

Firstly, such claim made before the Tribunal by the petitioner was rejected by the order dated September 13, 2018 passed in O.A.572 of 2015. The petitioner did not assail the same in the present writ petition.

Secondly, there cannot be a claim for negative equality. Other persons may or may not be validly appointed or granted appointment to the respective posts. We are not called upon to examine the validity of their appointment. What we are concerned is whether, the petitioner was over-aged or not. Admittedly, the petitioner was over-aged.

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

W.P.S.T. 74 of 2021 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)