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03.01.2023
S.D.

W.P.A. 15604 of 2022

Dhananjoy Ghanty
Vs.
West Bengal State Electricity Transmission
Company Limited & Ors.

Mr. Arkadipta Sengupta
Mr. T. Dey

...For the petitioner

Mr. Sumit Kumar Panja
Mr. Sumit Ray

...For the WBSETCL

The petitioner's grievance in the writ petition is that he has not been called for personal interview which was scheduled on July 19, 2022 for the post of Junior Engineer (Electrical), Grade-II pursuant to an Employment Notification vide No. REC/2021/04. The petitioner's case is that he should have been considered for recruitment to the said post in the unreserved (Exempted Category) UR (EC). The name of the petitioner in the unreserved (Exempted Category) was sponsored by the Directorate of Employment, Government of West Bengal. The said fact would appear from an office order dated October 14, 2021 issued by the General Manager (HR & A) of the West Bengal State Electricity Transmission Company Limited (WBSETCL).

Mr. Sengupta, learned counsel appearing on behalf of the petitioner submits that the cut off marks for UR (EC) was 32.441% as per the document published by WBSETCL annexed at page 102 of the writ petition. The petitioner obtained 38%. Despite the fact that the petitioner obtained 38% which was much above the cut off marks in the UR (EC), the petitioner was not called for personal interview.

Two reports have been filed on behalf of the WBSETCL. The question that was sought to be asked by this Court was whether the cut off marks for a candidate in the unreserved (Exempted Category) was 40% or 32.441%.

Mr. Panja, learned counsel appearing on behalf of the employer/WBSETCL submits that the Employment Notification did not specifically make any provision for candidate in the UR (EC). The said Employment Notification only provided for cut off marks Unreserved, OBC-A and OBC-B, Scheduled Castes, Scheduled Tribes and P.W.D. Candidates. Therefore, the petitioner would not be considered in the UR (EC). Furthermore, it has been submitted that in case there are no suitable candidates in the Exempted Category belonging to UR, SC, ST, OBC-A or OBC-B candidates, the vacancies would be filled up by non-Exempted Category candidates.

Since the Employment Notification did not make any provision for Exempted Category candidates in the aforesaid categories, the vacancies were sought to be filled up from the Un-Exempted Categories. Attention of the Court is also drawn to Sections 13 and 14 of the West Bengal Regulation of Recruitment in State Government Establishments and Establishments of Public Undertakings, Statutory Bodies, Government Companies and Local Authorities Act, 1999.

Having considered the rival submissions of the parties and the materials placed on record, this Court is of the view that the Employment Notification clearly provides for 62 posts of Junior Engineer (Electrical), Grade-II to be filled up by UR (EC) Category. Furthermore, in case, suitable Exempted Category candidates are not available, only then the candidates from non-Exempted Category would fill up the said posts. Admittedly, the cut off marks for UR (EC) Category candidates was 32.441%. Also admittedly, the petitioner obtained 38%.

Therefore, the contention that since there was no suitable candidates in the UR (EC) Category, the posts were filled up by Exempted Category candidates from Schedule Castes or Scheduled Tribes cannot be accepted.

From a perusal of Sections 13 and 14 of the 1999 Act, this Court finds that the said Sections do not relate to the cut off marks of the Exempted Category candidates in any way. The said Sections referred to the power/authority of the State Government to revise the percentage of reservation for any category and prescribe model rosters for recruitment to the posts in Government Establishments or Establishments of Public Undertakings or Statutory Bodies or Government Companies or Local Authorities. Therefore, Sections 13 and 14 of the 1999 Act do not come to the aid of the respondents in any manner.

In the light of the discussions above, this Court holds that the petitioner should be called for a personal interview having qualified as an Unreserved (Exempted Category) candidate since one post has already been directed to be kept vacant by an order passed by a Coordinate Bench on July 26, 2022. The petitioner, if found eligible will be given appointment in the post of Junior Engineer (Electrical), Grade-II, upon completion of the necessary formalities within four weeks from the date of the order.

With the directions aforesaid, **W.P.A. 15604 of 2022** is **disposed of**.

Stay of the operation of the order as prayed for by Mr. Ray is considered and refused.

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.)