

04. 03.01.2023
bd. Ct.15

W.P.A. 16461 of 2013
CAN 1/2014 (Old CAN 1193/2014)
(Application not in the file)

Sanjoy Mondal

-vs-

The State of West Bengal & Ors.

Mr. Soumyajit Bhatta

... for the petitioner.

Mr. Alok Kumar Ghosh

Mr. Arijit Dey

Ms. Manisha Nath

... for the KMC

The grievance of the petitioner is failure on the part of the concerned respondent authorities in appointing him in the post of Sub-Assistant Engineer (Electrical) in spite of the fact that petitioner's name appeared at serial no. 4 in the residual list.

It has been contended by Mr. Bhatta, learned advocate, representing the petitioner that an advertisement was made in the year 2011 seeking application from the eligible candidates for appointment in the post of Sub-Assistant Engineer (Electrical) and there was an indication in the said advertisement that two panels would be prepared – one main panel against clear vacancies and one supplementary panel against subsequent vacancies in order of merit. It has further been submitted that in connection with main panel there were 31 vacancies. It further appears from annexure R-2 to the affidavit in opposition that after converting one general (PH) vacancy into general vacancy the total

number of vacancies available under the general category was three (3) but it has been submitted that had all 31 vacancies been considered by the authorities in the second phase instead of three (3) vacancies there could have been six (6) vacancies available under the general category. Considering the merit position of the petitioner in the residual panel i.e. 4th, petitioner would have come within the zone of consideration since all three above ranked candidates under the said residual list was recommended and appointed by the respondent authorities. Therefore, according to the petitioner the respondent authorities ought to have considered all 31 vacancies in connection with main panel.

Mr. Ghosh, learned advocate, representing the KMC, submits that as per the said advertisement being annexure P-3 to the writ petition the life of the panel was for a period of one year and attention of this Court has been drawn to paragraph 4(D) of the affidavit in opposition wherein it has been specifically averred that panel was published on 2nd January, 2012 and it expired on 1st January, 2013. According to KMC, the writ petition was filed after expiry of the panel on 1st January, 2013.

This Court has heard the learned advocates representing the parties and perused the relevant materials available on record. Petitioner has taken a point that if all 31 vacancies in connection with main panel would have been considered as per the advertisement for filling up the post of Sub-Assistant Engineer (Electrical), then the petitioner

being 4th in terms of merit in the residual list would have come within the zone of consideration. Such issue might have been delved into had the writ petition been filed within the lifetime of the panel. But it appears that the writ petition was filed on 10th June, 2013 whereas life of the panel in question expired on 1st January, 2013 wherefrom it appears that after more than six months from the date of expiry of the panel the present writ petition was instituted.

It is trite law that the candidate who participated in the selection process has no right to approach the Court after expiry of the panel.

In view of the aforesaid scenario no relief can be granted to the petitioner and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Application, if any pending, also stands dismissed.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)