

45 **09.01.23**

Ct. No. 04

Akd

WP.ST. 107 of 2022

Nirmal Chandra Biswas

Vs.

The State of West Bengal & Ors.

Mr. Sakti Pada Jana,

Mr. Subhajyoti Das.

... for the petitioners.

Mr. Tapan Kumar Mukherjee,

Ms. Debdooti Dutta.

... for the State.

Several tribunal applications were taken out by a group of candidates challenging the selection process. It appears that some of the tribunal applications were finally disposed of and the order was carried to this Court and further approached the Supreme Court when the High Court refused to pass an interim order staying the operation of the order of the Tribunal.

It appears from the record that OA 292 of 2017 was one of such tribunal applications, which was disposed of 14th February, 2020, and the Special Leave Petition challenging the order of the High Court in refusing to stay the operation of the said order was disposed of with specific direction that there shall be a stay of operation of the order of the Tribunal for a specified time and in the meantime the writ petition should be disposed of finally. Another tribunal application being OA 741 of 2019 was taken out by another group of candidates and by an order dated 14th December, 2020 the same was disposed of and challenging the said order the writ petition being WPST 9 of 2021 was filed by the Public Service Commission, wherein the prayer for stay of operation of the said order was made and the same was refused. The refusal was challenged before the Apex Court and the Special Leave Petition was disposed of in tune

with the earlier order passed by the Supreme Court that there shall be a stay of operation of the order dated 14th December, 2020 passed by the Tribunal in OA 940 of 2019 and the High Court shall dispose of the said writ petition.

Since the tribunal application filed by the present petitioner was pending and being dealt with in isolation with the other tribunal applications, an interlocutory application being MA 26 of 2022 was taken out for an appropriate order permitting the petitioner to place on record the aforesaid orders dated 12th July, 2021 and 27th October, 2021 passed by the Apex Court in the Special Leave to Appeal (C) No. 8699 of 2021 and the orders of the Tribunal passed in the aforesaid tribunal applications.

Obviously the intention was to secure the disposal of the tribunal application in the light of the decision taken on 14th December, 2020, but the relief claimed in the said application appears to be twin fold intertwined to each other. Though an appropriate order was sought for, but upon permitting the writ petitioner to rely upon the aforesaid orders, the Tribunal was of the view that the moment the order of the Tribunal dated 14th December, 2020 has been stayed and the writ petition is pending before this Court, it is not proper to pass an order in the same line that of the order dated 14th December, 2020.

Such being the stand taken by the Tribunal there was no necessity to dispose of the said application as it may sometime create an obstacle or hurdle in the event the writ petition being WPST 9 of 2021 is disposed of by this Court. Apropos the safe course which could have been adopted is to keep the said application pending until the decision is taken by the High Court in WPST 9 of 2021.

In view of the above we set aside the impugned order. However, the Tribunal shall consider the tribunal application along with the main tribunal application.

The writ petition is thus disposed of.

There will be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)