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11.4.2023
S.D.

W.P.A. 23470 of 2022

Minoti Mandal
Vs.
Union of India & Ors.

Mr. Soumya Sankar Chini
... For the Petitioner
Mr. Indrajeet Dasgupta
Ms. Puspita Bhowmick
... For the Union of India

The petitioner applied for recruitment to the post of Constable (G.D.) in Central Armed Police Forces (CAPFs), NIA and SSP pursuant to the Assam Rifle Examination 2018 conducted by the Staff Selection Commission (SSC). Out of the 73 selected candidates for border areas in Scheduled Caste Category, only 62 vacancies were there for appointment in the Border Security Force (BSF). 62 candidates were offered appointment. Out of the 62 candidates, one candidate did not join. The petitioner's contention is that the cut off marks for SC candidates was 41.68990 whereas the petitioner obtained 43.58969. Therefore, the last appointed candidate in the SC category was illegally and arbitrarily appointed in place and stead of the petitioner. The result of the selection was published on January 21, 2021. The petitioner

approached the Court in February 2022, by filing a previous writ petition being W.P.A. 1340 of 2022. The Hon'ble Coordinate Bench by an order dated February 23, 2022 directed that since the petitioner had approached the Court after one year, in the event the entire selection process is over and all the vacancies filled up, the respondent authorities shall not be liable to give appointment to the petitioner even if she is found to be better qualified on the basis of the marks obtained. In the event, all the vacancies in SC category for West Bengal were not filled up on February 23, 2022 (the date of the order), the respondent concerned shall give appointment to the petitioner, in the event her final score is higher than the last candidate in SC category.

Since the petitioner was not given appointment, a contempt application being CPAN No. 438 of 2022 was filed. In the contempt application, the respondent authorities filed an affidavit to explain their stance. From the affidavit affirmed on August 5, 2022, it appears that the unfulfilled vacancies were already accounted for in the Assam Rifle Examination, 2021 and a notice was uploaded on July 17, 2021. A computer based examination was held in November – December, 2021 and the petitioner has also participated in the same. Therefore, there was no unfulfilled vacancy in the

B.S.F. for non-joining of one candidate as on February 23, 2022.

Being satisfied with the explanation given on behalf of the respondents, the Hon'ble Coordinate Bench by an order dated September 9, 2022 passed in CPAN 438 of 2022 held that there was no willful or deliberate violation of the order dated February 23, 2022.

This Court finds that another attempt has been made to reopen the issues in W.P.A. 1340 of 2022 along with CPAN 438 of 2022 by challenging the order dated March 31, 2022. The basis of the impugned order has already been explained by the respondent authorities in the affidavits filed to CPAN 438 of 2022 and the Coordinate Bench was satisfied that there was no willful contempt being satisfied with such explanation.

In such view of the matter, this Court finds that the instant writ petition is misconceived.

W.P.A. 23470 of 2022 is dismissed.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained in the petition are deemed not to have been admitted by the parties.

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.)