

W.P.A. 23613 of 2015

**Sri Bijay Ray
Vs.
The Secretary, West Bengal Regional School
Service Commission (Eastern Region) & Ors.**

Mr. Sahasrangshu Bhattacharjee

...for the petitioner

Dr. Sutanu Kr. Patra
Ms. Supriya Dubey

...for the WBCSSC

The writ petition is taken up for final consideration pursuant to the order dated 22nd February, 2023 in presence of the learned advocates representing the petitioner and West Bengal Central School Service Commission.

Dr. Sutanu Kumar Patra, learned Counsel representing the Commission has filed a report in the form of affidavit which has been affirmed on behalf of the Commission on 22nd February, 2023 which is taken on record.

From the report it appears that it has been candidly expressed on behalf of the Commission in paragraph 3 (e) that since the order of the coordinate Bench in the previous writ petition which was passed on 14th May, 2009 in favour of the petitioner has not been interfered with by the Hon'ble Division Bench in the appeal being MAT 658 of 2009 preferred by the Commission, Commission is required to

follow the order passed by the coordinate Bench on 14th May, 2009.

Paragraph 3 (e) of the affidavit which has been filed today runs infra:-

“e) It appears that in spite of the fact an order was passed in favour of the petitioner on 14.05.2009, till date the Commission has not been able to get any order of stay and/or get the appeal finally heard out and hence the right of the petitioner to be recommended in terms of the order dated 14.5.2009 still subsists. Accordingly, if the Hon’ble Court in the instant writ application being WPA 23613 of 2015 is pleased to direct the Commission to act in terms of the order dated 14.05.2009, the Commission sha (sic.) be bound to comply such order and take steps for recommending the petitioner in suitable vacancy”.

In view of such stand taken on behalf of the Commission as it emanates from the affidavit filed today this Court directs the Commission to issue recommendation in favour of the petitioner in connection with vacancy reserved for differently abled candidate within a period of 6 (six) weeks from the date of communication of this order directly to the school authority where petitioner is to be appointed since petitioner participated in 5th RLST 2004 and in terms of the procedure which was prevalent at the material point of time the school authority was the appointing authority on the recommendation of the School Service Commission. On forwarding recommendation by the School Service Commission as directed by this Court the concerned school authority will issue appointment letter in favour of the petitioner within a period of 7 (seven) days from the date of receipt of the recommendation and

petitioner will join the post within a period of 7 (seven) days thereafter.

Since petitioner participated in the selection process i.e. 5th RLST 2004 and in spite of being found eligible to be appointed in the post reserved for differently abled candidate contemporaneously petitioner was not appointed this Court directs the respondent authorities including State-respondents to grant notional benefit in favour of the petitioner with effect from 14th May, 2009 relating to his appointment and service, being the date on which the coordinate Bench allowed the writ petition being WPA 18683 of 2005.

With the aforesaid directions, the writ petition stands disposed of.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)