

31-07-2023
ct no. 13
sl. no. 15
sp

F.M.A. No. 320 of 2023
With
IA No. CAN 1 of 2022 (Not found in the file)
Pratima Samanta
-Versus-

The State of West Bengal & Ors.

Mr. Shamit Sanyal,
Ms. P. Banerjee

...for the appellant

Mr. Tapan Kr. Mukherjee, Id. Sr. Adv.,
Ms. Tuli Sinha

...for the State

1. The appeal is against the judgement and order dated September 15, 2022 passed by a Single Bench of this Court in WPA 11189 of 2022 (Pratima Samanta Vs. The State of West Bengal & Ors.). By the said judgement, the Single Bench of this Court dismissed the petitioner's application under Article 226 of the Constitution of India.
2. The brief facts relevant to the instant case are that the petitioner qualified as a Diploma holder in Nursing (GNM) from St. George School of Nursing, Bangalore under the Karnataka State Diploma in Nursing Examination Board, in the year 2019. She is a registered nurse as on January 23, 2020 in the State of Karnataka. The appellant has applied before the West Bengal Nursing Council for reciprocal

recognition of her Nursing Diploma of Karnataka, in West Bengal. This is pending consideration.

3. Sometime on November 2, 2021, the Government of West Bengal published an advertisement for selecting nurses to work in various States-run hospitals and medical facilities. An essential pre-condition and/or requirement to qualify in the selection process was a registration certificate from the West Bengal Nursing Council. Applications were received online.
4. The appellant participated in the selection process along with her registration certificate with the State of Karnataka dated January 23, 2020. She was not selected. Upon enquiries being made it was found that the appellant fell foul of the essential condition of having registration as a qualified nurse with the West Bengal Nursing Council. Admittedly, the appellant did not have the same.
5. Upon further enquiries, the appellant came to know that two of the candidates in the aforesaid selection process of recruitment of nurses, namely, Dipa Das and Rumali Khatun, having only provisional registration certificate issued by the West Bengal Nursing Council, not only

participated in the selection process, but also got selected.

6. Counsel for the appellant argued before the Single Bench and also before this Court that if a provisional certificate of registration, pending, issuance of final registration certificate can be submitted, the appellant having already a registered nurse in the State of Karnataka as on January 23, 2020 also ought to have been selected albeit pending issuance of the reciprocal registration certificate by the West Bengal Nursing Council.
7. The argument of the appellant has been rejected by the Single Bench. This Court is in agreement with the views of the learned Single Bench.
8. A candidate obtaining a nursing diploma within the State of West Bengal cannot be equated with a qualified nurse irrespective of the length of experience or registration in a State other than West Bengal.
9. Articles 14 and 16 of the Constitution conceive of equality between same class of person. It is only upon unequal treatment being meted out between equals that the State authority would fall foul of Article 14 of the Constitution. The principles under Article 14 cannot be applied

amongst unequals or different classes of persons.

10. In the instant case, it is seen that the appellant even with registration certificate in the State of Karnataka has no legal status whatsoever as a nurse in the State of West Bengal until her registration in Karnataka is recognised reciprocally under any law, rule or agreement between the State of Karnataka and the State of West Bengal or any Central Government directives in this regard. The classification by the State is therefore not unreasonable.
11. The non-selection of the appellant, in the aforesaid selection process, therefore, calls for no interference if the appellant is neither a registered nurse in the State of West Bengal nor enjoys any provisional registration certificate from within the State.
12. The impugned judgement therefore also calls for no interference whatsoever.
13. With the aforesaid observations, F.M.A. 320 of 2023 fails and hereby dismissed.
14. In view of the above, connected application, if any, shall also stand dismissed.
15. There shall be no order as to costs.

16. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)