

21.12.2023
rpan/06

WPST 188 of 2023
Bijan Mondal
– *Versus* –
The State of West Bengal & Others

Mr. Samim Ahammad,
Ms. Ambiya Khatun,
Mr. Enamul Islam
... for the Petitioner.

Mr. Tanoy Chakraborty,
Ms. Ashmita Chakraborty
... for the State/Respondents.

The present writ petition has been preferred challenging an order dated 10th October, 2023 passed by the learned Tribunal in the original application, being OA 631 of 2023.

Mr. Ahammad, learned advocate appearing for the petitioner submits that the petitioner applied for compassionate appointment on 26th June, 2013. At that juncture, he was higher secondary pass. Subsequently, he enhanced his qualification and passed the B.A. degree with Hons. in History in the year 2020. Though such fact was intimated to the Directorate of Health Services and he became entitled to be considered in respect of a Group – ‘C’ post, he was given appointment in a Group – ‘D’ post. However, the private respondent no. 1, a graduate, who also submitted an application for compassionate appointment was appointed in a Group – ‘C’ post. The respondents thus practiced discrimination. The appointing authority did not act exercise its discretion in a reasonable

manner. Such act was derogatory to the provisions of Rule 9 of the West Bengal Scheme for Compassionate Appointment, 2013. Such issues as urged before the learned Tribunal were glossed over and no finding was returned on the same.

Per contra Ms. Chakraborty, learned advocate appearing for the State respondents submits that the certificate towards enhancement of qualification was submitted by the petitioner subsequent to his appointment and approval to the Group – ‘D’ on 21st December, 2020. After accepting such appointment, the petitioner urged that the State respondents have acted discriminatorily in granting a Group-C post to a similarly placed candidate.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably at the time the petitioner applied for compassionate appointment, he was not a graduate. Such application was considered and the petitioner was granted appointment on 24th November, 2021 in a Group – ‘D’ post. Such appointment was duly accepted by the petitioner without raising any objection whatsoever. Subsequent thereto, the private respondent was given appointment on 11th March, 2022.

In the said conspectus, the argument of Mr. Ahammad that the State respondents had acted discriminatorily and had unreasonably exercised discretion in favour of the private respondent is not acceptable to us.

The learned Tribunal upon dealing with the factual issues had arrived at specific findings and we do not find any patent error of law in the same. The order impugned also does not suffer from any jurisdictional error or any manifest injustice warranting interference of this Court.

Accordingly, the writ petition is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(V. M. Velumani, J.)

(Tapabrata Chakraborty, J.)