

13-06-2023
Court No.2
bm/24.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

W.P.A. 776 of 2022

Usha Rani Roy

Vs.

The State of West Bengal &

Ors.

Ms. Jagriti Mishra
Mr. Debayan Goswami
Mr. Subham Gupta
Mr. Subham Chanda,
..... for the petitioner

Mr. Subir Kumar Saha
Mr. Momenur Rahaman
...for the State

This is an application for direction upon the respondent authorities to withdraw and cancel the impugned order No.183(L)-TET/IC-04T/2020 dated 10.3.2021 passed by the Director, Technical Education and Training, West Bengal not to appoint the petitioner for the post of mess employee (helper) as per office order dated 31.10.2012 passed by the Hostel/Mess Committee, Jalpaiguri Polytechnic Institute.

Affidavit of Service filed in Court today is taken on record.

Learned counsel for the petitioner submits as follows. Several candidates applied

for the post of mess employee (helper) at the Polytechnic. The petitioner Usha Rani Roy stood first at the walk in interview while one Payel Dutta stood third. It is germane to mention that the present petitioner was physically handicapped, having a deformed upper limb. Payel Dutta too suffered from some physical handicap in the lower limb and was selected in the panel published by the Polytechnic Institute. Surprisingly, the third candidate, namely, Payel Dutta was appointed. She resigned from the job after few days of work. The petitioner vented her grievance by a letter and filed a writ petition. By an order dated 3-3-2020 passed by this Court in W.P.A. 32 of 2020, this Court directed the respondents to consider the petitioner's representation. The petitioner accordingly, made a comprehensive representation in this regard before the respondent authorities. Her application was turned down. It appears that there is no specific guideline itself regarding the work at the hostel. It is rather by way of conjecture that the Director, Technical Education and Training came to a finding that the work of the hostel would require manual

work like to prepare vegetables and help the cooking preparation, to distribute cooked food among boarders, to clean cooking utensils and to keep the dining and the kitchen clean. In fact, the Director had to record that the Polytechnic Institute was supposed to consider the eligibility and attributes for the candidates as against the nature of job while advertising the post. It is the petitioner's case that the petitioner could still perform the jobs required for the post as mess (helper). If the respondents were of the view that she was unfit for the job, then they should not have allowed her to participate in the proceeding.

Learned counsel appearing on behalf of the State submits as follows. As would be evident from the impugned order that a person with serious disability would not be able to perform the duties of a helper in the hostel. It is also recorded by the Director that this aspect should have been taken into account by the Polytechnic before advertising the post.

I have heard the learned counsels for the parties and have perused the writ petition.

The finding made by the Director, Technical Education and Training, West Bengal was not by way of any conjecture. In the main order he has specifically dealt with the requirements of the manual work that would have to be performed by a helper. He has also recorded that Jalpaiguri Polytechnic Institute should have considered the eligibility and the attributes of the candidates before advertising the post.

It is, thus, quite evident that the petitioner who is physically handicapped could not fit the post that was advertised for.

However, what is most unfortunate is that the Polytechnic Institute and the concerned respondents did not take into these consideration and allowed the petitioner to participate in the interview and this aspect was not highlighted by them even at the of hearing of the first writ petition.

In view of the above, this Court is not inclined to allow the prayer made by the petitioner for appointment to the said post. However, the petitioner is entitled to some compensation for the harassment she had to undergo in applying for the post, going

through interview, making representation and in filing the writ petitions.

Accordingly, it is directed that the respondent nos. 4 and 5 shall pay a sum of Rs. 25000/- to the petitioner as compensation for the harassment caused to the petitioner. The compensation shall be paid within 4 weeks from the date of communication of this order.

With these observations the writ petition is disposed of.

Urgent Xerox certified copy of this order, if applied for, be supplied on priority basis.

(Jay Sengupta, J.)