

16 26.07.2024

Ct-29

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RVW 9 of 2024
in
MAT 1680 of 2023
with
IA No. CAN 3 of 2024

Sampa Naskar
Vs.
State of West Bengal & Ors.

Mr. Sarwar Jahan
Mr. Siddhartha Sarkar
Mr. Maidul Islam Kayal
... For the Petitioner

Mr. Subir Sanyal
Mr. Ratul Biswas
... For the Council

Mr. Indranil Roy, Govt. Adv.
Mr. Tapas Kumar Mandal
... For the State

1. The application for review and the application for appropriate order are taken up for consideration.
2. Learned counsel for the petitioner submits that subsequent to the order dated 17th October, 2023 passed by this bench a batch of writ petitions filed by persons similarly placed was disposed of by Justice Rajasekhar Mantha on 9th April, 2024 on the ground that although the delay in approaching Court even against an apparent illegality, negates a right to relief. It would be extremely onerous and unfair to cancel the appointments made in the year 2012 after a period of 12 years, even if they are found to be improper. It appears from the paragraph 15 of His Lordship's order that there

was consensus between the counsel for the petitioner, the State and the Howrah DPSC that all writ petitions in respect of the Recruitment Process of 2012 filed until March 31, 2024 shall be entertained. Each of the petitioners in the said writ petitions shall be entitled to appointments as successful empanelled candidates in the Recruitment Process for the year 2009 reconducted in the year 2012 under the Howrah DPSC and their appointments shall be effective from the date of issuance of appointment letters. They shall not have any claim towards any arrears since 2012 till date, either monetary or notional and the length of service and terminal benefit shall be calculated from the date of issuance of the letters of appointment to each of them in terms of the order dated 9th April, 2024.

3. In the application it is contended by the petitioner that the submission made on behalf of the DPSC, Howrah recorded in paragraph 6 of the order may not be correct as in view of the fact that DPSC had agreed before the learned Single Judge that the writ petitioners in the said batch of writ petitions shall be entitled to appointment as successful empanelled candidates in the Recruitment Process for the year 2009 which was

conducted in the year 2012. The instruction of the learned counsel for the DPSC recorded in paragraph 6 of the order dated 17th October, 2023 does not appear to be correct stand of DPSC, Howrah and on that basis the order passed earlier may be reviewed and/or modified.

4. We directed the respondent nos. 4 & 5 to file an affidavit indicating their stand. The relevant paragraphs of the said affidavit are reproduced below:-

“5. The Council has accepted the order dated 09/04/2024 passed by the Hon’ble Justice Rajasekhar Mantha in WPA 3268 of 2015 (Sourav Naskar & Ors. Vs. The State of West Bengal & Ors.) along with several other writ petitions and the Council has taken all steps to comply with the solemn order dated 09/04.2024 as aforesaid.

6. In view of such acceptance and compliance by the council as aforesaid, the answering respondent submits that the Council will strictly act in terms of the order which may be passed by this Hon’ble Court, however, subject to fulfillment of and compliance with all eligibility criteria by the appellant applications.”

5. In view of stand taken by DPSC, Howrah that the petitioners stand on the same footing, they are now required to be considered in view of the changed stand taken by DPSC, Howrah and the

fact that this instruction was not brought to our notice when we disposed of the appeal in which it was alleged that the process is irreversible, we modify our order dated 17th October, 2023 and direct for consideration of the petitioner on the basis of consensus made on behalf of the DPSC, Howrah, as recorded in paragraph 15 of the order dated 9th April, 2024.

6. On such consideration, the Review application and CAN 3 of 2024 stand disposed of.

(Soumen Sen, J.)

(Uday Kumar, J.)

