

05.02.2024
Court No. 13
Item No. 31
AP

WPA 1125 of 2023

Bibek Roy Chowdhury

Vs.

The Hon'ble High Court at Calcutta and Ors.

Mr. Sudipta Dasgupta

Mr. Arka Nandi

.... For the Petitioner.

Mr. Arjun Roy Mukherjee

.... For the Respondents.

1. It appears from the records that an employment notification for recruitment to several posts was advertised on 19th May, 2022 at the district judgeship of Jhargram. The said posts are English Stenographer, Lower Division Clerk, Process Server (Summon Bailiff), Peon/Nightguard and Sweeper. A candidate could apply for only one post.

2. The writ petitioner applied for the post of Process Server (Summon Bailiff) based on the advertisement dated 19th May, 2022. He was in the Unreserved (UR) category.

3. There was admitted mistake in the advertisement. The said post was actually reserved for UR(EC) candidates. The expression EC was not included in the advertisement. A corrigendum was published on the same day i.e. 19th May, 2022 indicating that the post is reserved for UR(EC) candidates.

4. In correspondence with the agency engaged by the judgeship, called support staff to facilitate the recruitment process, the writ petitioner admitted in no uncertain terms that he had read the corrigendum.

5. He, therefore, initially sought an option to switchover to another post or refund of his application money. He thereafter changed his mind and wanted to opt for another post. This was most unlikely based on an erroneous communication of the support staff on the first advertisement that the post of Process Server (Summon Bailiff) was for unreserved candidates only.

6. It is not as if the support staff made this mistake only in the case of the writ petitioner. There were a total number of 82 candidates, who were equally misled by the support staff, who failed to notice the corrigendum.

7. The writ petitioner no doubt is a very competent candidate for engagement in any post in the judgeship of Jhargram as he stood second in the merit list, scoring 80 out of 100 marks. He also did well in the interview process conducted under order of a coordinate Bench of this Court in this proceeding.

8. It is now a well-settled proposition of law that a mistake or error on the part of a person entrusted with the responsibility of discharging functions of the State cannot confer any rights contrary to the applicable rules to any person. There can be no estoppel against the law.

9. The mistake on the part of support staff therefore cannot confer any special status or rights to the writ petitioner. This Court notes with sadness that a competent candidate, who might have been an asset to the judgeship, has been lost. The writ petitioner has crossed the age to participate in any further similar recruitment process.

10. This Court, however, finds merit in the prayer of learned counsel for the writ petitioner to grant him one chance to participate with relaxation in age to any post that the writ petitioner is qualified and eligible for like Lower Division Clerk or Process Server (Summon Bailiff) at any Judgeship in the State. Such prayer is allowed as an exception without being a precedent.

11. With the aforesaid directions, the writ petition is disposed of.

12. There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)