

01.04.2024
SL No.11-12
Court No.8
(gc)

**MAT 307 of 2023
CAN 1 of 2023**

**Rajib Nath Saha
Vs.
State of West Bengal, through
Chairman, Public Service Commission & Ors.**

With

**MAT 308 of 2023
CAN 1 of 2023**

**Soumadipa Sen
Vs.
State of West Bengal, through
Chairman, Public Service Commission & Ors.**

Mr. Debayan Ghosh
...for the Appellant.
Ms. Shraboni Sarkar
...for the Respondent No.1, 2 & 3.

1. Both the matters relate to recruitment for the post of Junior Engineers' (Civil/Mechanical/Electrical) Recruitment Examination, 2017. The appellant/writ petitioner in the writ petition has challenged that several purportedly wrong answer keys have been provided in the recruitment process held by the Public Service Commission, West Bengal for the aforesaid post. The writ petition was opposed on the ground of maintainability of the writ petition in view of Sections 14

and 15(1)(b) of the Administrative Tribunals Act, 1985.

2. The learned Counsel for the petitioner/appellant has submitted that the issue raised cannot be decided by the Tribunal as no formal order has been passed by the Government which can be challenged in an application under Section 19 of the said Act. Section 19 of the Administrative Tribunals Act begins with the clause “subject to other provisions of the Act” which clearly saves the other provisions in relation to the jurisdiction and power of the Central and State Administrative Tribunals in deciding matters relating to the recruitment and matters concerning recruitment and also of service matters concerning a person. It is undoubtedly a matter concerning the service of the writ petitioner to a civil post which is covered under Section 15 of the Administrative Tribunals Act.
3. In view of the aforesaid, the decisions referred to by the learned Counsel for the appellant, namely, **(i) Kanpur University, Through Vice-Chancellor & Ors. Vs. Samir Gupta & Ors. reported at (1983) 4 SCC 309, (ii) Uttar Pradesh Public**

Service Commission, Through Its Chairman & Anr. Vs. Rahul Singh & Anr. reported at (2018) 7 SCC 254 and (iii) National Board of Examination Vs. Association of MD Physicians reported at 2022 SCC OnLine Del 2362 would not be applicable in the instant case. The issue raised in this appeal was also not raised in the aforesaid decisions. In any event, the dispute is clearly covered under Section 15 of the Administrative Tribunals Act, 1985 and hence this writ petition is not entertained in view of the provisions of Administrative Tribunals Act, 1985.

4. However, in view of the pendency of the writ petition and appeal in this Court, the writ petitioner shall be entitled to the benefit of exclusion of time under Section 14 of the Limitation Act and in the event the writ petitioner files any application on the self-same cause of action with any other reliefs before the Administrative Tribunal within a period of two weeks from date, the Tribunal shall not insist for any separate application for condonation of delay.
5. We make it clear that we have not gone into the merits of the matter.

6. With the aforesaid observation, the both the appeals and the connected applications are disposed of.
7. However, there shall be no order as to costs.
8. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Uday Kumar, J.)