

04.07.2024

SL- 28

(Dd)

FMA 682 of 2024

with

I.A NO: CAN 1 of 2024

Sri Biswajit Chakraborty

Vs.

Union of India & Ors.

Mr. Pratip Kr. Chatterjee,
Mr. Masud Mallik, Advocate
... ... For the Appellant

Ms. Chandreyi Alam, Advocate
... ... For the UOI

1. Appeal is at the behest of the writ petitioner and is directed against the judgment and order dated February 6, 2024 passed by the learned Single Judge in WPA 14919 of 2013.

2. Learned advocate appearing for the appellant submits that, the appellant was in Serial No. 13 in the selection list. According to him, persons who should not be granted the appointment were granted appointment. He points out that, persons from the Other Backward Classes were treated in the General Category. One of the persons who were in the higher rank in the selection list did not join and, therefore, the appellant is entitled to the appointment.

3. Union of India is represented.

4. Learned Single Judge in the judgment and order took into consideration all aspects of the matter. His Lordship found that in the merit list, the appellant was in such a place that even if, 4 vacancies were said

to be wrongly filled up, then also, the appellant did not come within the zone of consideration. Moreover, learned Single Judge found that a period in excess of 11 years elapsed from the date of the recruitment till the date of hearing of the writ petition and, therefore, learned Single Judge found it prudent not to grant any relief to the appellant.

5. Before us also, same contentions as that before the learned Single Judge were canvassed on behalf of the appellant. In addition thereto, appellant contends that, one of the selected candidates did not join the post.

6. Eight vacancies were advertised for recruitment in the recruitment process of 2013 in which the appellant participated. He was ranked as Serial No. 13 in the merit list. Nine persons were given appointments. Therefore, from such aspect, the appellant was not discriminated against as no person lower in rank to the appellant was given an appointment in the selection process.

7. So far as three of persons given an appointment belonging to the Other Backward Classes are concerned, we find that, they were given the appointment as General Category candidates. Learned advocate appearing for the respondents submits that such candidates were treated as General Category candidates. They were, in fact, General Category candidates and were given appointment as such.

8. Taking the case of the appellant at the highest, then also, appellant cannot find himself within the zone of consideration.

9. That apart, there is an aspect of the passage of time which the learned Single Judge correctly took into consideration.

10. As a writ Court, we need not upset the settled position after a passage of time. Selection process of 2013 in a writ petition filed in 2013 was disposed of by the learned Single Judge in 2024.

11. In such circumstances, we find no merit in the present appeal.

12. FMA 682 of 2024 along with connected application are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Partha Sarathi Sen, J.)