

13.05.2024
Item No.20
Court No.11
Avijit Mitra

WPCT 110 of 2024

In re: An application under Article 226 of the Constitution of India;

And

Director General, Head Quarters, Employees State Insurance Corporation & ors.

- Versus -

Smt. (Dr.) Sonia Jain

Mr. Arindam Maitra,
Ms. Rashmi Bothra,
Ms. Shreya Chaudhury

... for the petitioners

Mr. Sandip Kumar Bhattacharya,
Mr. Dipta Dipak Banerjee,
Ms. Srijita Dhar,
Mr. Ishan Aaditya,
Ms. Srilekha Dhar

...for the respondent

The present writ petition has been preferred by the functionaries of Employees State Insurance Corporation (in short, ESIC) challenging orders dated 4th March, 2024 and 11th March, 2024 passed by the learned Tribunal in an original application being O.A. 67/2024.

On 4th March, 2024 it was submitted before the learned Tribunal on behalf of the petitioners that as per the earlier direction of the learned Tribunal, the petitioners have conducted the interview of the original applicant/respondent herein on 12th February, 2024 at the ESIC Headquarters by a duly constituted selection board. It was further submitted

that the envelope containing the proceedings of the interview has been kept in a sealed cover till the outcome of the original application and one post of Assistant Professor, Micro Biology (EWS Quota) has been kept vacant as directed by the learned Tribunal and as such the respondent's grievance stands redressed. In view of such submissions and the letter produced on behalf of the petitioners, the learned Tribunal disposed of the original application with a direction upon the petitioners to conclude the selection process by opening the proceeds kept in a sealed cover and to declare the result accordingly. It was further observed that if the applicant therein is found eligible, further necessary action may be taken by the respondent's therein as per law.

Subsequent thereto, the respondent herein filed an application for modification of the order dated 4th March, 2024 and paragraph 4 of the order dated 4th March, 2024 was modified as follows :

'4. Considering the aforesaid, and upon perusal of the letter dated 28.02.2024, we are satisfied that no grievance exists any further. Accordingly, we dispose of this OA with a direction upon the respondents to conclude the selection process by opening the proceeds kept in sealed envelope and declare the result accordingly. If the applicant herein is found suitable for appointment on the basis of her performance in the interview, the respondents will take further necessary action as per law within a period of 6 weeks from the date of this order.'

Mr. Maitra, learned advocate appearing for the petitioners submits that the respondent did not have the requisite qualification for appointment to the post of Assistant Professor. From the document at page 27 of the writ petition it would appear that the respondent was working on contractual basis at CSIR on and from 15th July, 2016 to 14th July, 2019 and during the self-same period the said respondent also pursued her M.Sc. course at Singhania University, Rajasthan. Such incongruences in her record disentitles her from being appointed to the concerned post. Such argument, as advanced was glossed over by the learned Tribunal and no finding was returned on the same.

Mr. Maitra further submits that the application for vacating the *interim* order filed by the petitioners came up for hearing earlier on 31st January, 2024 but the same was not disposed of finally. Surprisingly, on the returnable date, i.e., on 4th March, 2024 the learned Tribunal also did not consider the said application. Such denial to exercise jurisdiction warrants interference of this Court.

Mr. Bhattacharya, learned advocate appearing for the respondent, however, submits that in terms of the *interim* order passed by the learned Tribunal, the respondent was allowed to participate in the interview. By the subsequent order dated 11th March,

2024, the learned Tribunal directed the petitioners to conclude the selection process upon opening the sealed envelope containing the proceeds of the respondent kept in sealed envelope and to declare the result within a specified time. The said order does not prejudice the petitioners in any manner whatsoever inasmuch as the petitioners in compliance with the learned Tribunal's earlier order had allowed the respondent to participate in the interview.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, it appears that in compliance of the earlier direction passed by the learned Tribunal, the respondent was allowed to appear in the interview. When the matter came up for hearing before the learned Tribunal on 4th March, 2024 the original application was disposed of taking note of the submissions made on behalf of the petitioners. By the subsequent order dated 11th March, 2024, the time period was specified for compliance of the earlier direction. We do not find any infirmity in the orders impugned, moreso when the earlier interim order dated 12th January, 2024 passed by the learned Tribunal was not interfered with in a writ

petition being WPCT 30 of 2024 preferred by the petitioners.

Accordingly, the present writ petition is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)