

WPST 82 of 2024

(Shahir Nadim & Ors. Vs. The State of West
Bengal & Ors.)

Mr. Subir Sanyal
Mr. Dibyendu Chatterjee
Mr. Pritam Majumdar
Ms. Satabdi Das

..... For the petitioners

Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. Ashmita Chakraborty

.... For the State

Drawing our attention to an order dated 20th March, 2024 passed by the learned Tribunal in an application being MA 17 of 2024 filed by the petitioners, praying for an early date of hearing, in connection with the original application preferred by them being OA 639 of 2023, Mr. Sanyal, learned advocate appearing for the petitioners submits that considering the petitioners' prayer for fixing an early date of hearing, liberty was granted to them to mention the matter made returnable before a two-Member Bench for '*Admission Hearing*' on 10th July, 2024, whenever such Bench is available before the returnable date. Presently, the learned Tribunal is functioning with only one learned Member and there is no possibility towards constitution of a two-Member Bench in the near future. The petitioners, thus, cannot be remediless and as such, the present writ petition has been preferred praying for an interim protection since no such prayer was considered when the matter was last taken up by the single Bench on 20th March, 2024.

In such circumstances, we have allowed Mr. Sanyal to advance his arguments in support of the interim order, as prayed for.

Mr. Sanyal submits that for filling up 8632 vacancies in the posts of Constable and Lady Constable in West Bengal Police, a notification was issued on 19th January, 2020. The petitioners applied for participation in the recruitment process and emerged to be successful in the preliminary written test. Thereafter, they participated in Physical Measurement Test (in short, PMT) and Physical Efficiency Test (in short, PET) and again emerged to be successful and accordingly, they were allowed to participate in the final written examination and interview. The said interview was held during the period from 17th August, 2022 to 23rd September, 2022. Surprisingly, however, the petitioners were not called to fill up the Verification Roll (in short, VR) and to participate in the Medical Examination (in short, ME).

He argues that the tenure of the recruitment process needs to be construed from the date of notification till the date of appointment moreso when in the recruitment process there is no provision towards preparation of any additional panel or of any waiting list and as such the petitioners would come within the zone of consideration for appointment in the posts which would remain vacant in the event candidates provisionally selected do not fill

up the VR and do not participate in the ME or remain absent in the ME.

He contends that from the replies to the queries raised by the petitioners through applications made under the Right to Information Act, 2005, the State authorities have answered that out of 8632 candidates provisionally selected, 7077 candidates have completed VR and ME and as such 1555 (8632 – 7077) posts are still vacant. Therefore, the respondents should recommend the petitioners, who have emerged successful till the stage of interview but the respondents are illegally intending to carry forward the said vacancies to the next recruitment process and unless the respondents are restrained from doing so, the petitioners would suffer irreparable loss.

Per contra, Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents submits that the recruitment notification is not under challenge in the original application. It would be evident from the contents of the notification that the provisionally selected candidates would be equal to the number of total vacancies. Such procedure has been strictly followed by the State respondents and almost all the resultant vacancies have already been filled up. The remaining vacancies have been carried forward to the next recruitment process in respect of which a recruitment notification was issued on 6th March, 2024 and the last

date for applying for participation in the said recruitment process was scheduled on 29th March, 2024.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, the petitioners have not been provisionally selected. From the contents of the recruitment notification, it also does not appear that the resultant vacancies that may occur, cannot be carried forward to the next recruitment process. The petitioners did not challenge the said notification and willingly participated in the recruitment process. Being unsuccessful, no indefeasible legal right has accrued in their favour.

In the said conspectus, in our opinion, no *prima facie* case has been made out by the petitioners towards grant of the interim order, as prayed for.

Accordingly, the prayer for interim order is rejected and the writ petition is dismissed.

Needless to observe, the learned Tribunal would decide the matter finally upon exchange of pleadings by the parties, without being influenced by any of the observations made in the present order.

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

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