

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Raja Basu Chowdhury

WPA 14919 of 2013

**Biswajit Chakraborty
Versus
Union of India & Ors.**

For the petitioner : Mr. K.B.S. Mahapatra
Mr. Kashinath Bhattacharya

For the respondents : Ms. Chandreyi Alam

Heard on : 6th February, 2024

Judgment on : **6th February, 2024.**

Raja Basu Chowdhury, J:

1. Challenging a selection process initiated by the respondents, pursuant to an advertisement in connection with the recruitment of Constable/Bugler in the State of West Bengal, the present writ petition has been filed.
2. Mr. Mahapatra, learned advocate representing the petitioner by drawing attention of this Court to the advertisement submits that the same invites application in prescribed format from male/female, Indian Citizens who are ordinarily resident of the States of West Bengal, Bihar, Jharkhand, Uttar Pradesh, Uttarakhand, Orissa,

Madhya Pradesh and Chhattisgarh. It is submitted that the advertisement reserves the number of vacancies in different categories to be filled up for different states. In respect of the State of West Bengal for the rank/trade of Constable/Bugler there were in total 18 vacancies out of which 8 vacancies were earmarked for the general category.

3. It is submitted that the petitioner had not only applied for the said post but is also otherwise eligible for being recruited since his name appeared in the merit list. Notwithstanding the aforesaid, the petitioner was ultimately not selected.
4. By referring to page 33 of the writ petition, it is submitted that the candidates in serial nos. 1, 2, 6 and 7 of the merit list despite being otherwise ineligible to participate as general category candidates, their names had been included in the merit list of general category candidates. It is still further submitted that although, the candidate in serial no. 1 is a general category candidate, he is not domiciled in the State of West Bengal and as such he could not have been selected for the post of Constable/Bugler under the category reserved for the State of West Bengal. It is submitted that there are irregularities in the selection process and the aforesaid irregularities have the effect of vitiating the same.
5. Pursuant to the order dated 7th June, 2013 passed by the Coordinate Bench of this Court, the learned advocate for the respondents had made over the list of selected candidates to the

petitioner. Pursuant to and in furtherance thereof, the aforesaid persons whose names featured in the serial nos. 1, 2, 6 and 7 of the merit list under general category have been arrayed as added respondents to the present proceedings. Mr. Mahapatra submits that the appointments of the aforesaid persons are bad and this Court by setting aside their appointments should direct the respondents to consider the candidature of the petitioner for appointment to the concerned post of Constable/Bugler.

6. Ms. Alam, learned advocate representing the respondents, on the other hand, submits that the petitioner had participated in the selection process and he was placed 13th in the merit list of general category candidates for the State of West Bengal. The petitioner had applied as a general category candidate and as such cannot question the legality and/or validity of other candidates who do not come under the general category. She submits that insofar as candidates in serial nos. 6 and 7 of the merit list are concerned, such candidates had participated in the selection process under general category, despite being candidates under reserved category. As such they have been included in the merit list for general category. Insofar as the candidate in serial no.1 is concerned, she submits that he is ward of a CRPF personnel and is otherwise eligible to participate in the selection process on the basis of the address of his father. Insofar as candidate in serial no.2 is concerned, he is a departmental candidate and as such he is entitled to participate

since, he had obtained a No Objection Certificate (NOC) from the department. Having regard to the aforesaid, it is submitted that the petitioner has failed to make out any case for consideration of his candidature. There is no irregularity on the part of the respondents in concluding the selection process by excluding the petitioner from the zone of consideration since, he has been placed in serial no.13 of the merit list under the general category.

7. Heard the learned advocates appearing for the respective parties and considered the materials on record. Admittedly, it is noticed that an advertisement was published for selecting the candidates under different categories in respect of various States by the office of the Inspector General of Police, Central Sector, CRPF, TC-32/V Vibhuti Khand, Gomti Nagar, Lukhnow. The said selection process also reserved vacancies for the State of West Bengal as well. As noted above, the present petition is confined to the selection process of Constable/Bugler under general category for the State of West Bengal. I find that the petitioner raises objection to the provisional list candidates under serial nos. 1, 2, 6 and 7 on the grounds noted hereinabove, who were selected for the post of constable during the recruitment conducted at Siliguri, Darjeeling.
8. Insofar as serial no.1 is concerned although, Ms. Alam, learned advocate representing the respondents, has tried to impress upon this Court that the said candidate being a ward of a CRPF personnel was otherwise eligible to participate in the selection

process, I, however, find from the advertisement that no such provision had been made in respect of ward of CRPF personnel.

9. Insofar as serial no.2 is concerned, admittedly, the said candidate was domiciled out of State of West Bengal. Although, Ms. Alam has submitted that since, the candidate in serial no.2 was a departmental nominee and had participated in the selection process on the basis of NOC issued by the department and there cannot be any irregularity in selecting him, I am afraid and am unable to accept such contention, since the advertisement does not provide for such reservations for departmental candidates.

10. Insofar as candidates in serial nos. 6 and 7 of the provisional list is concerned, although, it is submitted by Ms. Alam that such candidates had participated as general category candidates despite being reserved category candidates, there is nothing on record to establish such fact. I, however, notice from the list of candidates provisionally selected for the concerned post of Constables categorically identifies the candidates under serial nos. 6 and 7 to be under OBC category. Once, a candidate avails of the relaxations as available to a reserved category candidate, he/she can no longer be regarded as a general category candidate. Interestingly, however, from the aforesaid list of the candidates disclosed by the respondents which is at page 18 of the affidavit-in-opposition as identified by Ms. Alam, the petitioner is placed under serial no.13 under the general category. Even if the aforesaid candidates under

serial nos. 1, 2, 6 and 7 are discounted, the petitioner does not come within the zone of consideration for being selected to the rank of Constable/Bugler under general category for the State of West Bengal, as in such case he would at best be placed in serial no.9. There being only 8 vacancies under general category, his case would, thus, remain outside the zone of consideration.

11. Having regard thereto, and since, the selection process had been completed long back, I am of the view that the petitioner, at this stage, cannot be entitled to any relief especially when the petitioner does not come within the zone of consideration.
12. Since, no other point has been canvassed and all issues have already been decided, the writ petition fails and is accordingly dismissed.
13. There shall be no order as to costs.
14. Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance of necessary formalities.

(Raja Basu Chowdhury, J.)