

25.11.2024

**Sl. No. 41
Ct. No. 23
Srimanta**

WPA/19867/2024

Gouri Shankar Dey

-Vs.-

The State of West Bengal & Ors.

Mr. Sakya Maity

...for the petitioner.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner challenged the order dated 22nd September, 2009 by which the learned West Bengal Administrative Tribunal disposed of the application filed by the petitioner without granting any relief. The Division Bench by an order dated 20th September, 2010 passed in WPST/665/2009 had rejected the petitioner's claim but provided for the following:-

"However, we make it clear that dismissal of this petition only on the ground of expiry of the life of the panel in question will not prevent the concerned authority to appoint the petitioner to the post in question in terms of the Memo No. 398(21) dated 19.03.2009 after obtaining necessary approval of the Finance Department of the Government of West Bengal".

The petitioner made series of representations to the Government of West Bengal, Judicial Department, Grievance Cell ventilating his grievances. The

Superintending Engineer (Agri-Mechanical), Midnapore (A-M) Circle, the Deputy Secretary and Nodal Officer of Government of West Bengal by series of letters have rejected the petitioner's prayer though it is the case of the petitioner that many selected candidates from the panel wherein the petitioner was enlisted had been given appointment even after the rejection of petitioner's claim for which the petitioner shall also be given the appointment. The petitioner has again come up with another writ petition, *inter alia*, seeking appointment to the post of 'Operator-cum-Mechanic'. The selection process was of 2007. The Division Bench had dismissed the petitioner's judicial review in 2010. The petitioner is continuing with a stale claim when it is well settled in view of the ratio laid down in **2010(2) SCC 59 [Union of India & Ors. -Vs.- M. K. Sarkar]** that by directing consideration of the representation does not revive a stale claim. Assuming without admitting the reply given by the concerned District Magistrate or the other authorities have revived the claim of the petitioner then also the writ petition is not maintainable firstly on the ground that the petitioner cannot claim a mandatory direction for appointing him when such prayer was specifically rejected, secondly, on the ground of delay in making a service related claim as the petitioner has approached

this Court after 14 years from the date of the order passed by the Division Bench. Even assuming that this Court does not have the authority to receive, try and determine the application of the petitioner as the West Bengal Administrative Tribunal in view of the provisions of Sections 15 and 28 and ratio laid down in **2020 (17) SCC 602 [AIIMS -Vs.- Sanjiv Chaturvedi & Ors.]** is the appropriate forum then also keeping in mind that the West Bengal Administrative Tribunal is non-operational as there is no judicial member presently engaged thereat and this Court while exercising the writ jurisdiction is empowered in view of the ratio laid down in **(2020) 6 SCC 1 [Rojer Mathew -Vs.- South Indian Bank Limited)** to entertain the writ petition, the writ petition is not maintainable for the aforesaid reasons.

The writ petition is without merit and is accordingly dismissed.

(Arindam Mukherjee, J.)