

08.01.2024.
Court No.13
Item No. 9
ap

W.P.A. No. 25793 of 2022

**Nikhil Chandra Ghosh
Versus
The State of West Bengal & Ors.**

Mr. Kallol Guha Thakurata,
Md. Wasim Rahaman.

...For the petitioner.

Mr. Jayanta Samanta,
Mr. Prashant Kumar Tripathi.

...For the State.

Mr. Pranab Halder,
Mr. Swarvam Saha.

...For the respondent no.4.

1. The question that comes for consideration is notwithstanding the recommendation dated 1st November, 2019 issued by the Director of Fisheries, West Bengal, why was the petitioner not promoted to the post of District Fishery Officer (in short 'DFO').
2. The report filed by the State indicates that the feeder post for the purpose of promotion to the post of DFO, is that of supervisor. The petitioner was admittedly working as Supervisor. However, a tenure of five years in the position of Supervisor is a pre-condition for such promotion.
3. It is also seen that in terms of a Circular of the Finance Department communicated to the Department of Fisheries, if a vacancy of DFI is not filled up within six months, the vacancy automatically lapses. The post of DFO admittedly is a next cadre post.

4. It was created for temporary and specific purposes. The petitioner, not having the requisite five years tenure in the post of Supervisor could not have claimed any right to promotion to the post of DFO.

5. Counsel for the petitioner submits that there were three other persons, namely, Sri Chitta Ranjan Mondal, Sri Swapan Kumar Mukherjee and Rajendra Prasad Maity, who had not completed the requisite five years but were promoted to the post of DFO.

6. It is now well settled that the petitioner cannot claim any benefit or negative equality with persons, who have been promoted improperly.

7. This Court stop short of making any further comment in this regard as the said three persons are not participating in this proceeding.

8. Admittedly, the petitioner has superannuated from service in January, 2022. The question of granting any retrospective or notional promotion in the post of DFO, therefore, does not and cannot arise.

9. Hence, the instant writ petition fails and is hereby dismissed.

10. There will be no order as to costs.

11. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

