

22.11.2024

Court No.23
DL. Item No.3.
P.P

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 27812 of 2024

**Kaushik Chatterjee
versus
The High Court, Calcutta & Ors.**

Mr. Anjan Bhattacharya,
Ms. Tapati Sarkar

....For the Petitioner.

Mr. Jaydip Kar, Sr. Adv,
Mr. Siddhartha Banerjee,
Ms. Jyoti Rauth,
Mr. Mainak Chandra

....For the High Court Administration.

A selection process for filling up one vacancy for the post of Deputy Registrar (Court) borne in the Technical Branch on the Appellate Side Establishment commenced with the issuance of the notice dated 13th November, 2024. The said vacancy is to be filled from against the eligible Assistant Registrar (Court), Technical Branch, appellate Side of this Court. The petitioner says that he is presently Assistant Registrar (Court) Technical Branch, Appellate Side of this Court. The petitioner further says that he is eligible to participate in the selection process, but has not been allowed to do so. Challenging the process of selecting

the eligible candidates allowed to participate in the selection process, the petitioner has filed this writ petition.

It is also the case of the petitioner that in 2023 an appointment notice was published inviting recording of willingness to participate in the selection process for filling up two vacancies in the post of the Deputy Registrar (Court) in the technical branch of the Appellate Side Establishment of this Court. The petitioner was found eligible and as such participated in such selection process wherein there was ten participants but this time for the same post the petitioner is not found eligible. The petitioner's result in the 2023 selection process was kept in abeyance as there was an inquiry continuing before the Internal Complaint Committee (in short ICC) in connection with a complaint made by a lady employee of this Court against the petitioner alleging sexual harassment in office/work place.

The petitioner says that though he is within the zone of consideration for the selection-cum-promotion to fill up the declared vacancy, the High Court Administration ought to have allowed the petitioner to participate in the selection process but has prevented him from doing so with an ulterior motive and mala fide intention. The petitioner further says that in 2023 there were two vacancies for the post of the Deputy Registrar

(Court). The two posts were filled in by keeping the petitioner's result in abeyance. One amongst the two persons who were appointed as the Deputy Registrar (Court) in the 2023 selection process has since become the Joint Registrar (Court) which has given rise to a vacancy in the post of the Deputy Registrar (Court) which has been advertised in November, 2024.

The petitioner says that this result was not published last time because of the pending complaint. The petitioner also says that if the result of the complaint case goes in the favour of the petitioner then his marks are to be opened and considered against the 2023 selection. Since two vacancies therein have filled up the petitioner on being successful cannot be fit into such vacancies. The post now falling vacant should be left earmarked for considering the petitioner's candidature. Moreover, if the petitioner is not allowed to participate in this selection process and the vacancy which has arisen in 2024 is also filled up then the petitioner will be deprived as he may not get a further opportunity of participating in a selection process for promotion. The petitioner has not challenged the selection process of 2023. The petitioner has also not filed any proceedings for early disposal of the complaint made against him which is pending before the ICC. The petitioner has straightway come up to challenge the selection process of 2024.

In the backdrop of the facts stated hereinabove, it is to be first ascertained whether the petitioner is coming within the zone of consideration which allows him to express his willingness to participate in the selection process commenced on 13th November, 2024.

On behalf of the respondents, it is submitted that the petitioner does not come within the zone of consideration. The vacancy declared under the 2024 selection process is for one post. Willingness is sought for on 1:5 ratio. The petitioner is placed in the *inter se* seniority list for Assistant Registrars (Court) in serial No.29. A list of the names as per seniority for Assistant Registrars (Court) is placed before the Court with a copy to the learned advocate for the petitioner which is taken on record.

Going by the willingness shown by other Assistant Registrars (Court) who are senior to the petitioner, the petitioner does not come within the zone of consideration. In the 2023 examination/selection process, there were two vacancies. Going by the willingness expressed by Assistant Registrars (Court) for the selection process of year of 2023, the petitioner came within the zone of consideration but not this time. Moreover, without the complaint being disposed of the petitioner cannot be also considered for selection-cum-promotion.

After hearing the parties and considering the materials on record, I find that the petitioner does not qualify to participate in the selection process commenced with the notice dated 13th November, 2024 for filling up one vacancy for the post of the Deputy Registrar (Court), Appellate Side Establishment of this Court as the same is required to be filled from out of the Assistant Registrars (Court) who are willing to participate and come within the zone of consideration as per the *inter se* seniority list. As willingness expressed by Assistant Registrars (Court) senior to the petitioner takes him out of the ratio of 1:5, the petitioner is not eligible to participate. That apart and in any event, since the complaint before the ICC is still pending, the petitioner is disentitled to participate. Even assuming without admitting that the petitioner is eligible to participate in the selection process then also his candidature will not be considered for the pendency of complaint before the ICC.

In the aforesaid facts and circumstances, the writ petition is unmeritorious and is accordingly dismissed.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arindam Mukherjee, J.)