

Item-17. 29-01-2024

MAT 2078 of 2022
CAN 1 of 2023

sg Ct. 8

Ananya Singha Ray @ Ananya Sarker @
Ananya Sarkar
Versus
The Secretary, Department of Electricity Nabanna & Ors.

Mr. Asim Hati, Adv.
Ms. Sreetama Neogi, Adv.
...for the appellant
Mr. Ranjay De, Adv.
Mr. Basabjit Banerjee, Adv.
Mr. Adityajit Abel Bose, Adv.
...for the respondent nos. 2-4 (DVC)

1. By consent of the parties, the appeal and the application are taken up together and disposed of by this common order.
2. We have heard the learned Counsel for the parties.
3. Indisputably, the appellant comes within the purview of exempted category in terms of the Notification dated 21st August, 2002. The said notification supersedes all other earlier notifications. Under the said notification, persons belonging to the family of land loser have been treated as exempted category and a procedure has been laid down for their appointment in Rule I (6) which reads as follows:

“I(6) – The District Magistrate concerned will forward the list of eligible persons to the Director of Employment, West Bengal, and advise the enlisted persons to enroll their names in the Exempted Category Cell of the Directorate of Employment, West Bengal at 67, Bentick Street, Kolkata-700069, by producing supporting papers List of eligible persons of the case of land losers already prepared and maintained by the District Magistrates in terms of the earlier circulars

issued by the Labour Department shall also be forwarded to the Director of Employment, West Bengal. The District Magistrate, concerned advise such enlisted persons to get their names enrolled in the Exempted Category Cell of the Directorate of Employment producing supporting papers.”

4. We have been informed that a District Magistrate has forwarded the name to the Directorate of Employment, West Bengal and the name of the writ petitioner is to be enrolled in the exempted category list.
5. The learned Counsel recognized the said right and observed that the petitioner would be required to wait her turn of recruitment and no legal right of the petitioner has been violated by the respondent nos. 2 to 4 being the authorities concerned in not giving her appointment.
6. Instead of giving a direction upon the Director of Employment Exchange to forward the name to the organization and/or authority and/or body for consideration of her name for appointment commensurate with her educational qualification, the writ petition was dismissed.
7. The appellant is aggrieved by the use of word “dismissed” in the writ petition as it might send a wrong signal to the authority concerned. Although, we are of the view that irrespective of the word ‘dismissed’, the right of the appellant is required to be considered under the Notification dated 21st August, 2002.
8. We dispose of this appeal by replacing the word ‘dismissed’ with ‘disposed of’ and with a further direction

upon the Director of Employment Exchange to forward her name to the appropriate authorities for appointment of the appellant under the exempted category from the wait listed candidates and as and when her turn comes in terms of the Notification dated 21st August, 2002.

9. It appears that the land was requisitioned in the year 2003-04 and the land loser certificate was issued on 21st February, 2011 in favour of the husband of the petitioner. The writ petitioner registered her name for employment in the National Employment Exchange on February 21, 2011 and in the State Employment Exchange on December 12, 2010.
10. The learned Counsel for the petitioner apprehends that the candidature of the writ petitioner may be rejected on age bar.
11. We are of the view that in the event the name of the petitioner is recommended by the Employment Exchange under exempted category, age bar should not stand in the way of considering her application for appointment to a suitable post in the organization to whom her name may be forwarded.
12. Since the matter is pending almost eight years before the Employment Exchange, we would direct the said authority to immediately look into the matter and forward her name immediately when her turns come as delay may cause difficulty for her to get an appointment with regard to age bar.
13. With the aforesaid direction, the appeal and the

applications stand disposed of. However, there shall be no order as to costs.

14. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)