

09.07.2024
rpan/22

WPST 198 of 2023
Dr. Shubhrangshu Dutta
– *Versus* –
The State of West Bengal & Others

Dr. Chapales Bandyopadhyay,
Ms. Gargy Basu,
Ms. Atmaja Bandyopadhyay,
Ms. Anandamayee Dutta
... for the Petitioner.
Mr. Tapan Kumar Mukherjee, Ld. AGP,
Ms. Sangeeta Roy
... for the State/Respondents.
Mr. Rudra Jyoti Bhattacharjee
... for the Respondent no.3.

The present writ petition has been preferred challenging the order dated 29th September, 2023 passed by the learned Tribunal in the original application (hereinafter referred to as OA), being OA 1022 of 2019 and praying for issuance of necessary direction for expeditious disposal of the OA.

Records reveal that the original applicant/petitioner herein filed the OA before the learned Tribunal on 23rd December, 2019 *inter alia* praying for a direction upon the respondents to award five marks in terms of item – D of the advertisement dated 9th October, 2018 and to grant appointment to the petitioner in the post of Clinical Tutor cum Dental Surgeon in the West Bengal Dental Education Service. On 14th December, 2022, on consent of the learned advocates appearing for the contesting parties, the

matter was taken up for consideration by the learned Tribunal sitting singly and was made returnable for further hearing. However, subsequently in an order dated 29th September, 2023, the learned Tribunal observed *inter alia* that '*since no such Bench is available today, let the matter be placed before a Bench comprising of two members (one Judicial and one Administrative) under the heading "Hearing" on 20.02.2024*'.

Drawing our attention to a subsequent order passed by the learned Tribunal on 20th February, 2024, Dr. Bandyopadhyay, learned advocate appearing for the petitioner submits that though it was recorded that none had appeared for the applicant, it was surprisingly observed that '*on consent of the learned counsel for the contesting parties, the case is taken up for consideration sitting singly*' and the hearing of the matter was deferred till 12th December, 2024. Let a copy of the said order 20th February, 2024, as produced, be kept on record.

He submits that the OA is pending since the year 2019. Till date the learned Tribunal is functioning with a single member and there is also no possibility towards constitution of the division Bench in the near future. In view thereof, the petitioner has been deprived of speedy justice.

Placing reliance upon a notification dated 23rd November, 2022, Dr. Bandyopadhyay submits that the matter comes within the classification '*Recruitment, Appointment*' and as such, the same can be heard by a learned single Bench.

Mr. Bhattacharjee, learned advocate enters appearance on behalf of the respondent no. 3.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents, in his usual fairness, has placed before this Court an order dated 25th April, 2024 passed by a Bench presided over by the Hon'ble Chief Justice in a Public Interest Litigation observing *inter alia* that '*....the applications which are filed need not be adjourned to be heard by a Bench comprising of Two Members...*'. Such observation was made taking note of an order passed in an earlier writ petition being WPA 21973 of 2023. Let the said order, as produced, be kept on record.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Access to justice is a fundamental right and the State must provide effective adjudicatory mechanism and such process of adjudication must be accessible and speedy. However, the West Bengal Administrative Tribunal is functioning with a single member for a

substantial period of time and there is no possibility towards constitution of a Bench of two members (Judicial and Administrative) in the near future. As a consequence thereof, the litigants are the worst sufferer. The State must conduct itself with high probity and candour and ensure that the litigants do not succumb to the procedural rigmarole.

From the records it is explicit that with the consent of the parties the matter was heard by a learned single member initially on 14th December, 2022. Surprisingly, by the orders dated 29th September, 2023 and 20th February, 2024, the learned Tribunal observed that the matter be placed before a Bench comprising of two members (one Judicial and one Administrative) though the dispute involved in the OA comes within the classification '*Recruitment, Appointment*' as provided in the notification dated 23rd November, 2022 and the same can be heard by a learned single Bench.

In the said conspectus and in the light of the order dated 25th April, 2024 passed by the Bench presided over by the Hon'ble Chief Justice in WPA (P) 125 of 2024 the learned single member is directed to hear and dispose of the OA on merits as expeditiously as possible and preferably within a period of ten weeks from the date of communication of this order to the

learned Registrar, West Bengal Administrative Tribunal, without granting any unnecessary adjournment to either of the parties.

The writ petition is, accordingly, disposed of setting aside the observation made by the learned Tribunal in the orders dated 29th September, 2023 and 20th February, 2024 passed in OA 1022 of 2019.

Dr. Bandyopadhyay informs us that the State respondents and the petitioner have exchanged their pleadings in the OA. He has handed over a copy of the OA to Mr. Bhattacharjee, learned advocate appearing for the respondent no.3 in Court today and the said respondent no.3 would be at liberty to use a reply to the said OA within four weeks from date with a copy to Dr. Bandyopadhyay, who would be at liberty to use a rejoinder to the same within two weeks thereafter.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)