

W.P.C.T. 87 of 2024

Dev Kumar Halder
Vs.
Union of India & Ors.

Mr. Sudip Krishna Dutta,
Mr. Anjan Sengupta

...for the Petitioner

Ms. Chandreyi Alam,
Ms. Runu Mukherjee

...for the Union of India

1. Heard the learned counsel for the petitioner and the learned counsel for the respondents.
2. The petitioner participated in a process of recruitment for Group 'D' post conducted under the procedure prescribed in R.B.E. No. 73 of 2008. The same involved written test, PET, medical examination and thereafter document verification. The procedure contemplated preparation of a panel. The panel was to be 20% in excess of the number of vacancies.
3. It is the petitioner's case that having participated and having gone up to the medical test, he was found fit in A2 category but was never offered any appointment. It is his assertion that he was in the regular panel, the petitioner thus filed an Original Application bearing O.A. No. 1053 of 2019. Since the petitioner had not availed any remedy before approaching the Central Administrative Tribunal,

Kolkata Bench (hereinafter referred to as 'the C.A.T. '), the petitioner was permitted to withdraw the original application with liberty to file a representation. In the event a representation was filed, the competent authority was required to consider the same.

4. Such consideration led to issuance of the speaking order dated 10.12.2019. It is based on this speaking order that the petitioner came to learn that in the earlier recruitment process he was declared 5th in A2 category and on account of such level of fitness he was entitled to be recruited as a Porter. Since the panel could not be operated for some years and the nature of duty required a high physical standard, authorities conducted medical test afresh. In the fresh medical test the petitioner's fitness category was downgraded from A2 to A3 category.
5. Under the circumstances, the petitioner assailed the speaking order dated 10.12.2019 by filing another O.A. The O.A. No. 893 of 2022 has been disposed of by the C.A.T. on 05.09.2023. The C.A.T. after considering the petitioner's grievance has taken note of certain order/s passed by this Court in W.P.C.T. No. 74 of 2022.

6. On a specific query being made by this Court, the learned counsel for the petitioner submits that copy of the order is not in the record.
7. Be that as it may, referring to the Judgement passed by this Court in W.P.C.T. No. 74 of 2022 and extending similar treatment to the petitioner, the C.A.T. has directed as follows:

“4. Accordingly, we dispose of this O.A. with the following direction:-

*(i) To re-examine the case of the applicant by preparing a replacement panel with respect to Employment Notice 0112 and to consider the case of the candidates as per merit including the applicant(s) herein if he falls in the zone of consideration and, **if he is otherwise eligible**, against unfilled vacancies of Gr. ‘D’ posts in the different Units of Eastern Railway by following the requisite recruitment process as per extant rules.*

(ii) It is expected that the competent authority shall complete the exercise of consideration of the case of the applicant as directed hereinabove preferably within six months from the date of receipt of certified copy of this order and intimate the decision thereon to the applicants forthwith.

5. In view of the above discussion, the O.A. stands disposed of accordingly. M.A. (s), if pending, also stand disposed of accordingly. There shall be no order as to costs.”

8. The learned counsel for the petitioner submits that the direction for consideration and placing of the petitioner in a replacement panel does not satisfy the petitioner. According to him, he ought to have been placed in the regular panel from which the recruitment was made and therefore, a direction ought to have been issued for his appointment, whether on A2 or A3 category, is immaterial.
9. We find no merit in the said submission as there is no material to suggest that at any point of time, the petitioner's name was figuring in the provisional panel at a position which was within the zone of consideration. Since this fact is not apparent from the records, there is no scope for the petitioner to claim that he ought to have been placed in the regular panel and not the replacement panel.
10. We, therefore, find no reason to interfere with the order of the C.A.T. dated 05.09.2023 passed in O.A. No.893 of 2022 with M.A. No.335 of 2022.
11. The Writ Petition is accordingly dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)