

Ct. No.4 D/L-10 26.03.2025
(Naba)

W.P.C.T. 119 of 2023

Dhriti Ballav Sarkar & Anr.
Vs.
Archan Joshi & Ors.

Mr. Syed Shamsul Arefin
...for the Petitioners

Mr. Sauvik Nandy,
Mr. Subrata Santra
...for the Union of India

1. The petitioners before this Court were seeking appointment under the Land Loser Policy. The claim of the petitioner no.1 was rejected on the ground that he did not qualify the Physical Efficiency Test (PET). This Court taking into consideration the stand of the respondents in W.P.C.T. No. 88 of 2023, with respect to the applicability of PET in the case of appointment of land losers, passed an order, earlier in these proceedings on 10.07.2024 in the following terms:-

“Mr. Arefin submits that even if a candidate does not qualify in PET, he cannot be denied appointment, however, subject to medical examination. In support of such contention, reliance has been placed upon an order dated 11th May, 2023 passed by a coordinate Bench of

this Court in a writ petition being WP.CT 88 of 2023.

A perusal of the said order dated 11th May, 2023 reveals that the Court arrived at a specific finding that *'even a person is not qualified in physical efficiency test, he will still be considered for appointment on medical test'*. A perusal of the said order would further reveal that on behalf of the railways it was submitted, upon instruction, that *'even a land loser who does not qualify the physical efficiency test, he has not been debarred from giving an appointment under the said Scheme if the medical test indicates that he is otherwise fit to render the services attributable to the post to be offered to him'*.

In view thereof, we direct the respondents to conduct a medical examination of the petitioner no.1 within four weeks from date."

2. Insofar as the petitioner no. 1 is concerned, we are informed that pursuant to the said order he has already been offered the appointment based on medical test.
3. Insofar as petitioner no.2 is concerned, an issue is sought to be raised by the respondents regarding the petitioner no.2 being over aged.
4. The issue is seriously contested by the learned counsel for the petitioners by submitting that there is no question of an age bar in the Land

Loser Policy as the only consideration was whether the person was a land loser, or not.

5. The petitioners' claim is sought to be resisted by the respondents by submitting that the petitioner is 50 years 7 months old and therefore, there is an age bar operating against his candidature. The respondents, however, in the case of other land losers has offered appointment to the land losers who are at least up to age of 56 years on the date of issuance of appointment letter.
6. In support of such submission, he has referred to the information supplied by the respondents themselves under the Right to Information Act, 2005. The information dated 06.01.2025 has been supplied by the Sr. Personnel Officer/Engg./Principal Chief Personnel Officer of Eastern Railway wherein a list of 19 beneficiaries have been provided giving their date of birth, their date of application, as also date of issuance of appointment letter to them.
7. Insofar as the person placed at serial no.2 in the said list is concerned, we find that he was 53 years at the time of issuance of appointment letter. The person whose name figures at serial no.12 is shown to have been born on 02.08.1968 and appointment letter issued to him on 09.08.2024, at the age of 56. Though the reply

containing this document was served on the learned counsel representing the respondents, there is no denial.

8. We, therefore, find no force in the contention of the respondent authorities that by virtue of being 50 years and some odd months the petitioners would be disentitled to avail the benefit of appointment by virtue of being a land loser under the Land Loser Scheme.
9. At this juncture, the learned counsel for railway raises an objection that the petitioners would still be required to qualify the PET.
10. Such submission is equally unsustainable having regard to the earlier order dated 10.07.2024 passed in these very proceedings, extracted above. The respondents themselves have complied with the said order and proceeded to consider the claim of the petitioner no.1, who had failed the PET, favourably to the petitioner based only on the medical test.
11. We find the stand of the respondents regarding the petitioner no.2 being over aged is unsustainable. They are required to process the petitioner's claim based on medical test as has been done in the case of petitioner no.1.
12. We, therefore, direct that the respondents should conduct a medical test of the petitioner no.2

within four weeks from date, and process his candidature without raising objection regarding PET and/or regarding him being overage.

13. The Writ Petition stands allowed in the above terms.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)