

18.08.2025
(D/L-14)
Ct. No.4
(B.K.N.)

W.P.S.T. 177 of 2025

**Anupam Gayen
Vs.
The State of West Bengal & Others**

Mr. Soumya Dasgupta,
Mr. Rizankar Das

...for the Petitioner

Mr. Amal Kr. Sen, Ld. AAG,
Ms. Ashima Das (Sil)

...for the State

1. Heard learned advocate for the writ petitioner.
2. The petitioner participated in the recruitment process and did not emerge successful. The process of recruitment was for appointment of Industrial Development Officer in the Directorate of Micro, Small and Medium Enterprises, West Bengal. The petitioner was not declared successful in the written examination where after he raised issues that the model answers which form the basis of evaluation were incorrect and in spite of his objections thereto the authorities did not consider the same. He approached the West Bengal Administrative Tribunal (SAT) by filing an Original Application. O.A. No. 338 of 2022 filed by the writ petitioner was withdrawn with a liberty to avail remedies. The order of withdrawal of the writ petition was assailed by him in a writ proceedings. It is the averments in the Original Application that he filed a

writ petition in the year 2023 bearing W.P.A. 28988 of 2023 which was disposed of on 06.08.2024 with liberty to file afresh before the appropriate forum.

3. The record reveals that after O.A. 338 of 2022 was withdrawn by the writ petitioner, he thereafter filed another Original Application bearing O.A. 635 of 2022. It is not in dispute that O.A. No. 635 of 2022 was withdrawn by the writ petitioner citing personal reasons without; any liberty to file afresh and without any adjudication on merits.
4. The third Original Application thereafter has been filed bearing O.A. No. 608 of 2024 which has been dismissed by the Tribunal on 22.04.2025 in the following terms:

“It is observed that the same applicant, Anupam Gayen had earlier filed an application being OA 635 of 2022. A copy of the order sheet in this application makes it clear that in the earlier application also the applicant had prayed for exactly the same issue. The applicant later withdrew the application, OA 635 of 2022 from the Tribunal due to “personal reason”. A copy of the order no. 7 dated 22.09.2023 clearly indicates that such an application was withdrawn by the applicant. Finding that the same prayers were part of the earlier application in OA 635 of 2022, the Tribunal comes to the conclusion that this application is not admissible due to res judicata. Therefore, it is dismissed.”

5. We have put a specific query to the learned advocate appearing for the writ petitioner as to whether the petitioner had made a disclosure in O.A. No. 608 of 2024 regarding withdrawal of O.A. No. 635 of 2022 without any liberty. The learned advocate submits that

no such disclosure was made in the Original Application which fact appears correct from a bare perusal of the Original Application which has been enclosed with the writ petition. He, however, submits that failure to make such a disclosure was a mistake. We are unable to accept such a submission, since it was the same writ petitioner before the Tribunal in the subsequent proceedings (O.A. No. 608 of 2024). Significantly, the petitioner has made a specific mention about the first Original Application bearing O.A. 338 of 2022 which was withdrawn with liberty.

6. We, therefore, find it a clear case of suppression of a relevant and material fact by the writ petitioner before the Tribunal in O.A. 608 of 2024.
7. Another aspect of the matter which we take into consideration is that as per averments made in the Original Application by the writ petitioner, the entire recruitment process concluded by recommendations having been made on 15th January, 2021 by the Public Service Commission in favour of 118 candidates.
8. Thus, third party rights have accrued, and the petitioner has not impleaded any of the successful candidates in O.A. No. 608 of 2024. Such lapse would also weigh against the writ petitioner.
9. The jurisdiction for judicial review under Article 226 of the Constitution of India is an equitable jurisdiction. The petitioner has not approached the Tribunal with

clean hands and has resorted to wilful and deliberate suppression of relevant and material fact which in our opinion disentitles him any remedies under Article 226 of the Constitution of India. We do not find it a fit case for exercising our extra ordinary discretionary jurisdiction under Article 226 of the Constitution of India.

10. For the above reasons, we find no infirmity in the order of the SAT dated 22.04.2025 passed in O.A. No. 608 of 2024.

11. The writ petition is dismissed.

12. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Biswaroop Chowdhury, J.)