

10.02.2025

Item no.ML/2
Court No. 23

Asraf, A.R.(Ct.)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 26925 of 2024

**SRI KOUSHIK GHOSH
VS.
THE STATE OF WEST BENGAL & ORS.**

Mr. Udyan Roy

Mr. Avik Chakraborty

....for the Writ Petitioner

Mr. Sirsanya Bandopadhyay,

.....Ld. Sr. Standing Counsel

Mr. Ritesh Kr. Ganguly

....for the State

Mr. Debjit Mukherjee

Ms. Susmita Chatterjee

....for the Respondent nos.2 & 3

The petitioner participated in a selection process for recruitment of different category of staff in the District Judgeship of South 24 Paraganas which commenced by publishing the notification no.2 dated 9th August, 2018. The petitioner submitted his candidature for the post of Peon under OBC-B category. The petitioner says that he stood first but depriving him, the second ranked candidate was given appointment under OBC-B category in the post of Peon on 27th June, 2019. Petitioner challenged such action by filing a writ petition being WPA no.16132 of 2019. In the said writ petition an order was passed on 15th May,

2023, the operative portion is set out hereunder for better appreciation of the facts :-

“This court directs the District Judge, South 24 Parganas and also the Chairman of the district Recruitment Committee/the respondent No. 2 to immediately issue a letter of appointment in favour of the petitioner, not later than a period of two weeks from date. In view of the anomalies committed by the District Recruitment Committee in appointing the private respondent No. 4, this court directs an enquiry to be conducted by the High Court administration. It is requested that the enquiry be conducted within a period of six months from date of the communication of the order.

Let the matter appear for further consideration on July 3, 2023 under the same heading Motion.

A copy of this order be served on the Registrar General, Appellate Side.”

The petitioner was issued the appointment letter on 20th May, 2023 and joined the services on 29th May, 2023 as will appear from the letter dated 29th May, 2023 annexed at page 71 of the writ petition being annexure ‘P-15’ thereto. The writ petition thereafter appeared before the Court and was finally disposed of by an order dated 9th October, 2023. It was recorded in the said order that the petitioner had been issued appointment letter and had also joined the services.

The said order further records that the approval of the Hon'ble the Chief Justice to initiate enquiry was sought for. The Hon'ble the Chief Justice had directed the matter to be placed before the Administrative Committee. The said order also records that the second ranked candidate who was given appointment had resigned. The said second ranked candidate was respondent no.4 in that writ petition being WPA no.16132 of 2019 has been also deleted from the array of respondents on having tendered resignation. The importance of the enquiry directed by the order dated 15th May, 2023, has virtually become inconsequential on the second ranked candidate having resigned.

The petitioner now says that he ought to have been given appointment on 27th June, 2019 being the first ranked candidate as the second ranked candidate was given appointment on that day by depriving the petitioner which is apparent from the order dated 15th May, 2023 when this Court directed issuance of appointment letter to the petitioner. The order dated 15th May, 2023, the operative portion whereof is quoted hereinabove, only directs issuance of the appointment letter after taking into consideration the entire fact. There was no stipulation in the said order for giving any notional benefit or treating the petitioner to be

appointed from a retrospective date. In absence of such stipulation, it cannot be said that the petitioner is entitled to the benefits between 27th June, 2019 to 29th May, 2023 which includes compensation of Rs.9,71,755/- as claimed by the petitioner being equivalent to the salary that the petitioner would have received had he been appointed on 27th June, 2019 instead of 29th May, 2023. The order dated 15th May, 2023 has achieved finality. There is no scope of revisiting the same by a Co-ordinate Bench once the Co-ordinate Bench did not allow any notional benefit or to treat the appointment from a retrospective date. The petitioner is not entitled to any compensation or other benefits treating the petitioner to have been appointed on 27th June, 2019 instead of 29th May, 2023. Moreover, the petitioner did not work between 27th June, 2019 and 29th May, 2023 and, as such, he is not entitled to any salary or compensation for the said period. So far as notional benefit is concerned since the Court did not specify anything even by the subsequent order dated 9th October, 2023 by which the writ petition was disposed of, the petitioner is not entitled to any such notional benefit. So far as the appointment of the second ranked candidate is concerned, an enquiry had

been directed, whatever will be the result of such enquiry the consequences will follow.

In the aforesaid facts and circumstances, the writ petition is **disposed of** without passing any order as prayed for by the petitioner.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

The parties are directed to act upon the server copy of this order duly downloaded from the official website of this High Court without insisting upon production of a certified copy thereof.

(**Arindam Mukherjee, J.)**