

16.06.2025
Sl. No.21
Ct No. 3
SG

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

W. P. A. 1178 of 2025

Prosenjit Roy & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Anjan Bhattacharya,
Mr. Nabankur Pal,
Ms. Sutapa Sen Pal,
Mr. Bodhisatya Ghosh.

... for the petitioners

Mr. Momenur Rahaman,
Ms. Bedashruti Bose.

... for the State

1. The petitioners have preferred the present writ petition, seeking parity with the relief granted by this Hon'ble Court in its judgment dated 19.09.2024 in WPA 12286 of 2021.

2. It is the specific case of the petitioners that they are similarly situated to the petitioners therein and are, therefore, entitled to identical relief. By the said judgment this Hon'ble Court had directed West Bengal School Service Commission to consider the grievance of the petitioners in the matter of treating them at similarly situated to other in-service candidates who had already been enlisted, subject to their fulfillment of the requisite eligibility criteria,

3. Learned Counsel for the petitioners submits that in response to the advertisement issued by the West Bengal School Service Commission vide Memo No. 861/6723/CSSC/ESTT/2916 dated 23.09.2016, the petitioners applied for the post of Assistant Teacher at

the upper primary level in government aided/sponsored school. The petitioners had also participated in the 1st State Level Selection Test (SLST) 2016 for class 9 and 10 and were subsequently selected and appointed as Assistant Teacher in the year 2019 and have also joined in several schools. Numerous writ petitions were filed before this Court challenging the selection for upper primary level teachers in WPA 9597 of 2019, being treated as lead matter.

4. This Court vide order dated 11.12.2020, was pleased to set aside the earlier selection process and directed respondent authorities to initiate fresh recruitment process in accordance with law. Pursuant thereto, the respondents issued notice dated 28.12.2020 and the petitioners along with others, participated in the renewed selection process. The petitioners were shortlisted and invited for interview. However, on the date of the personality test, the petitioners were orally asked by the respondents, whether they are working as service teacher recommended by the Commission. Despite being called for the personality test, the Commission did not allow the petitioners to participate in the interview process and rejected the petitioners' candidature on the ground that as the petitioners are Assistant Teachers in the High Schools, as per the notification of the Commission, for 1st SLST-2016 (AT) issued on 23.08.2016 at Point No. 3 (v) the candidates cannot apply for the post in

same or below pay scale. As the petitioners have been serving as Assistant Teachers, in the High Schools from 2019 onwards, they were deemed ineligible and excluded from the interview process to the post of Assistant Teacher in Upper Primary Level. Some of the candidates similarly situated to the petitioners challenged the action of the School Service Commission by filing WPA 12286 of 2021. This Court vide its order dated 19.09.2024 in the said writ petition, directed the respondent commission to consider the grievances of the petitioners by treating them as similarly situated with other in-service candidates, provided that they were otherwise eligible. The respondent commission implemented the said judgment and extended its benefit to the petitioners in that writ petition, many of whom have since been appointed as assistant teachers across various schools in the State.

5. In the interregnum, the Hon'ble Supreme Court set aside the recruitment process by which the petitioners were appointed as high school assistant teachers, as a result of which the petitioners lost their employment. It is in this background and seeking similar treatment as accorded in WPA 12286 of 2021, the petitioners have approached this Court by way of this writ petition.

6. This Court has heard the arguments advanced by the Counsel for the petitioners and has perused the documents placed on record. Upon careful

consideration of its record, it is evident that the petitioners were duly notified to participate in the interview process for the post of Assistant Teacher (upper primary level) in government aided/sponsored schools, scheduled on 31.07.2021 and 02.08.2021. However, they were denied participation on the ground that they were already employed as assistant teachers at the high school level. It is noted that the petitioners did not challenge this exclusion at the material point of time and appeared to have accepted the decision without any protest. In contrast, the petitioners in WPA 12286 of 2021 promptly challenged the said exclusion before this Hon'ble Court, which ultimately resulted in a favourable order on 19.09.2024. Pursuant to the said order, many of those petitioners secured appointments. It is, therefore, evident that the petitioners cannot be treated as similarly situated to those in WPA 12286 of 2021, as the petitioners therein exercised their legal remedies in a timely and diligent manner, whereas the present petitioners remained acquiescent and failed to assert their rights until much later. It is pertinent to note that the present petitioners have approached this Court only after a lapse of nearly four years allegedly due to their termination from service following the judgment of the Hon'ble Supreme Court.

7. Mere reliance on a judgment passed in favour of other similarly placed persons, who availed of their remedies in time, cannot furnish an independent cause

of action for those who remained indolent and failed to assert their rights when the cause first arose. It is well-settled that in matters of public recruitment, the timely assertion of grievances is of paramount importance. The respondent authorities are under an obligation to conclude recruitment processes within a prescribed time frame to ensure administrative efficiency and legal certainty.

8. In the present case, the petitioners have approached this Court after an inordinate delay of approximately four years. Their claim, therefore, is barred by principle of delay and laches.

9. In light of the foregoing, this Court is of the considered opinion that the present petitioners herein cannot be treated at par with the petitioners in WPA 12286 of 2021 and as such, are not entitled to the benefit of the judgment dated 19.09.2024 rendered in that case.

10. Accordingly, the present writ petition is dismissed.

11. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)