
(2018) 06 CAL CK 0140
In the Calcutta High Court
Case No : MAT 481 of 2018, CAN 3284 of 2018

Panchanan Bera

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 13-06-2018

Acts Referred:

Citation : (2018) 06 CAL CK 0140

Hon'ble Judges : BISWANATH SOMADDER, J; ARINDAM MUKHERJEE, J

Bench : Division Bench

Advocate : Biswanath Mitra, Triptimoy Talukdar, Arun Kumar Das, Tapan Kumar Mukherjee, Somnath Naskar, Chandrani Bhattacharya, Supratim Bhattacharya

Final Decision : Dismissed

Judgement

Biswanath Somadder, J.

Let the affidavit of service filed in Court today be taken on record. By consent of the parties, the appeal is treated as on day's list and taken up

for consideration along with the application for stay. The instant appeal arises out of a judgment and order dated 1st May, 2018, passed by a learned

Single Judge in WP 4642 (W) of 2018 (Sri Panchanan Bera vs. The State of West Bengal & Ors.). By the impugned judgment and order, the learned

Single Judge proceeded to dismiss the writ petition of Sri Panchanan Bera who was appearing in-person. The appellant/writ petitioner has now

preferred an appeal against the said judgment and order dated 1st May, 2018.

For the sake of convenience, the impugned judgment and order is reproduced hereinbelow in its entirety:-

The petitioner appears in person. The petitioner seeks age relaxation to participate in a selection process. The municipality and the State are

represented. Learned advocate for the municipality submits that, the petitioner is guilty of suppression of material facts. There was a selection process

of 2015 where the petitioner had participated. Such fact is not pleaded in the writ petition.

It is admitted by the petitioner that, municipality had undertaken a selection process in 2015. According to the petitioner, he had participated in such

selection process. According to him, the municipality did not permit him to continue with the participation as he was overage. The fact that the

petitioner had participated in the selection process in 2015 and that, there was a selection process of 2015 is not pleaded in the writ petition.

The petitioner has obtained an interim order on April 11, 2018 on the strength of the pleadings as contained in the writ petition. A candidate is entitled

to age relaxation once during his lifetime. Such age relaxation has to be given in the first available selection process. In the present case, there was a

selection process in 2015 where according to the petitioner he had sought to participate. The so called wrongful denial of such right of the municipality

was not challenged by the petitioner at all. These relevant facts are not pleaded by the petitioner.

In such circumstances, I find no merit in the present writ petition. The writ petition is guilty of suppression of material facts. The order dated April 11,

2018 is recalled. W.P. No.4642 (W) of 2018 is dismissed. No order as to costsâ??.

Even a bare perusal of the impugned judgment and order, as reproduced hereinbelow, reveals that the appellant/writ petitioner had obtained an interim

order earlier on 11th April, 2018, on the strength of the pleadings as contained in the writ petition. The learned Single Judge was pleased to take note

of the fact that a candidate was entitled to age relaxation once during his lifetime. Such age relaxation had been given in the first available selection

process. The learned Single Judge also took note of the fact that there was a selection process in the year 2015, where, according to the appellant/writ

petitioner, he had participated. The learned Single Judge held that the so-called wrongful denial of such right of the municipality was not challenged by

the petitioner at all. These relevant facts were not pleaded by the petitioner. As such, the learned Single Judge did not find any merit in the writ

petition. Rather, the learned Single Judge found the writ petitioner of being guilty of suppression of material facts.

In an Intra-Court Mandamus Appeal no interference is usually warranted unless the impugned judgment and order suffers from palpable infirmities or perversities. On a plain reading of the impugned judgment and order we do not notice any such palpable infirmities or perversities. Rather, the impugned judgment and order has been rendered with cogent and justifiable reasons. For reasons stated above, the appeal and the application for stay are liable to be dismissed and stand accordingly dismissed.