

(2020) 01 CAL CK 0001
In the Calcutta High Court

Case No : Appeal From Order (APO) No. 384 Of 2018 In Writ Petitions (WP) No. 86 Of 2018

Subhasish Roychowdhury

APPELLANT

Vs

State Of W.B. & Ors.

RESPONDENT

Date of Decision : 02-01-2020

Acts Referred:

Citation : (2020) 01 CAL CK 0001

Hon'ble Judges : Sanjib Banerjee, J;Kausik Chanda, J

Bench : Division Bench

Advocate : Dipankar Pal, K. Naskar, Chaitali Bhattacharyya, Mrinal Kanti Ghosh, Niladri Bhattacharjee, Deblina Chatterjee

Final Decision : Dismissed

Judgement

The Court : The appellant writ petitioner describes himself as being engaged as a peon at the Nonapukur Workshop of the Calcutta Tramways Company (1978) Limited. The appellant approached this Court under Article 226 of the Constitution complaining of 15 persons being promoted to the post of record keeper in Calcutta Tramways Company (1978) Limited though there may have only been 12 posts available.

The appeal is directed against an order dated August 21, 2018 by which the writ petition was dismissed primarily on the ground that the writ petitioner had participated in the selection process and, after having failed, the writ petitioner sought to challenge the promotion process. According to the appellant, he did not participate in the process and the writ Court completely failed to appreciate the nature of the grievance that the appellant had brought to Court.

There is no doubt that the process for the promotion to the post of record keeper in this case was initiated by a notification of January 25, 2016. Employees with the minimum eligibility criteria as indicated in the notification were invited to participate in a written examination and interview for being promoted to the post

of record keeper. Eight of the posts were for the unreserved category, three were reserved for the scheduled castes and one was reserved for a scheduled tribe candidate.

According to the appellant, during the relevant year, certain further vacancies accrued, but even after taking into account the further vacancies, there were only 12 posts of record keeper that were available. The appellant also relied on an order of this Court passed on a separate petition by another employee by which one post at the record keeper level was directed to be left unfilled, pending the adjudication of the relevant petition. Thus, it is the appellant's case that no more than 14 or 15 could have been taken in or promoted as record keepers.

It is elementary that for a person to invoke the writ jurisdiction in a case of the present kind, such person has to demonstrate the prejudice caused or likely to be caused to such person as a result of the action impugned. Of course, public interest litigations are permissible, but this is no public interest litigation.

There is no whisper in the writ petition as to how the appellant as a peon would stand prejudiced if the promotions were allowed to go through. Though it is submitted on behalf of the appellant that when an illegality is brought to the notice of the Court, the Court should brush aside the technicalities and go to the root of the matter, it is evident that the appellant has no right to be aggrieved by the impugned promotion since the appellant was neither a candidate nor does the writ petition speak of the appellant's future prospects being prejudiced as a result of the impugned promotion process.

It is apparent that the writ petition did not speak of the appellant taking part in the examination for the promotion pursuant to the notification of January 25, 2016 and the single Bench erred in assigning such reason to dismiss the writ petition. However, it also does not appear that the appellant had any locus standi to challenge the promotion process, particularly, since the writ petition does not speak of any prejudice suffered or likely to be suffered by the appellant or the appellant's future prospects being affected by the perceived illegal promotions.

Since the appellant does not appear to have any locus standi to question the promotion process, the order impugned is not interfered with, though different grounds are indicated herein than those evident from the impugned order.

As a consequence, the appeal fails. APO No.384 of 2018 is dismissed. The order dismissing the WP No.86 of 2018 is affirmed on different grounds as indicated above.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.