

121.
06.10.2023
S.D.

**W.P.A. 23097 of 2018
With
CAN 2 of 2023**

**Sk. Rahim Mondal & Ors.
Vs.
The Union of India & Ors.**

Mr. Subhabrata Datta
Mr. Aranya Saha

...For the Petitioners

Ms. Chandreyi Alam
Ms. Runu Mukherjee

...For the Union of India

Re: **CAN 2 of 2023**

Ms. Alam, learned counsel appearing on behalf of the Union of India submits that the petitioner nos. 1 and 9 have been promoted. Since the petitioner nos. 2 to 8 did not exercise their option in terms of the 2010 Standard Operating Procedure (SOP), they could not be absorbed as Nursing Assistants.

Therefore, she submits that whether or not the procedure was stalled from 2018 onwards is of no relevance since the petitioner nos. 2 to 8 have not exercised their option for absorption.

Mr. Datta, learned counsel appearing on behalf of the petitioners submits that *suo motu* option could not have been

exercised by the writ petitioners. Only upon being called to exercise option, the petitioners could have done so. Therefore, the illegality in not absorbing the petitioners as Nursing Assistants cannot be sustained.

He further submits that such a case has not been made out in the Report-on-Affidavit.

Ms. Alam is permitted to file an Additional Report on Affidavit to CAN 2 of 2023 bringing on record the procedure that is usually followed for exercise of option.

It also has to be brought on record whether the petitioners can *suo motu* exercise the option. The Standard Procedure for exercise of option that has been followed by the other members of the Force has to be brought on record.

Let such additional Report-on-affidavit be filed by December 1, 2023.

Let an additional Exception to the said additional Report-on-Affidavit, if any, be filed by December 8, 2023.

Exception to the Report as handed over in Court today by Mr. Datta in CAN 2 of 2023 is retained with the records.

Let the matter come up for further consideration under the same heading “**Application**” on **December 15, 2023**.

All parties shall act on the server copy of this order
duly downloaded from the official **website** of this Court.

(Lapita Banerji, J.)