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21.10.2020
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WPA 7579 of 2020
with
C.A.N. 1 of 2020
(VIA VIDEO CONFERENCE)
Chandan Chatterjee
Vs.
The State of West Bengal & Ors.

Mr. Pratip Kumar Chatterjee
Mr. Chittapriya Ghosh.
... for the petitioner.

Ms. Rima Das.
... for the respondent.

Ms. Chama Mukherjee
Ms. Sangeeta Roy.
... for the State.

CAN 1 of 2020 is disposed of by taking up the writ
petition for consideration.

Petitioner complains that, a junior was
recommended for promotion to the post of 'accountant'
wrongfully. He submits that, the petitioner is senior to the
respondent no. 10 who was promoted to the post of
'accountant'. He draws the attention of the Court to the
memorandum dated November 19, 2007 and submits that,
promotion to the post of 'head clerk' is to be made out of
'head clerk/accountant/cashier'. In the event, the respondent
no. 10, who is a junior to the petitioner, is promoted to the

post of 'accountant' prior to the petitioner being promoted, then, the interests of the petitioner would stand prejudiced when the consideration for promotion to the post of head clerk comes up.

Learned advocate for the College submits that, a proposal for appointment of the respondent no. 10 as the 'accountant' was made to the authorities. He submits that, there is a post of cashier lying vacant where the petitioner is being considered. The college received only one application from the respondent no. 10 for the post of the accountant. Therefore, the college recommended the promotion for the respondent no. 10 to such post. Recommendation of promotion of the petitioner to the post of cashier could not be made due to the present pandemic situation.

State is represented.

In the facts of the present case, it appears that, the petitioner joined in the college as a 'Lower Division Assistant' on September 1, 1990. His appointment was approved by the Director of Public Instruction, Government of West Bengal on January 2, 1991. The appointment of the respondent no. 10 is subsequent to the appointment of the petitioner. Apparently, two posts of the college became

vacant namely, the post of cashier and the accountant. So far as the post of accountant is concerned, the respondent no. 10 applied for the same and being the sole applicant, the college recommended his promotion. Such recommendation is yet to be approved by the appropriate authority. So far as the post of cashier is concerned, the petitioner applied for it. His application is yet to be recommended by the college authorities. According to the college authorities, the present pandemic situation prevented the college authorities to recommend the petitioner for the promotion to the post of cashier.

There is a memo bearing no. 915-Edn (C.S.)/5p-77/99 dated November 19, 2007. It deals with recruitment for the post of head clerk/accountant/cashier in the non-government colleges in the State which is as follows:

"In cancellation of this Department's Order No. 222-Edn (C.S.) dated 22.02.2001, the undersigned is directed by order of the Governor to say that after careful consideration, the Governor has been pleased to prescribe the following rules for recruitment to the post of Head Clerk/Accountant/Cashier in non-Government Colleges in the State:-

- (i) Whenever a vacancy arises in the post of Head Clerk, the post is to be filled up by promotion of an employee of the status of Upper Division Clerk such as Accountant/Cashier etc.
- (ii) Whenever a vacancy arises in the post of

Accountant/Cashier, the post is to be filled up by promotion of an employee belonging to the category of Lower Division Clerk, such as Clerk, Typist, etc.

In either case, attendance, experience, efficiency, seniority and character roll shall have to be taken into consideration."

There may arise an issue and to the interest of the petitioner in the event, the respondent no. 10 receives approval to the post of accountant on promotion prior to the promotion of the petitioner to the post of cashier. In such circumstances, to the balance of equities between the petitioner and the respondent no. 10, it would be appropriate to direct the authorities not to grant any approval to the promotion of the respondent no. 10 to the post of accountant till, the authorities receive the recommendation of the college for promotion of the petitioner to the post of cashier and the authorities decide on such application, in accordance with law.

Since the Court did not invite any affidavits from the parties, allegations made in the writ petition are deemed to be denied.

WPA No. 7579 of 2020 is disposed of without any order as to costs.

(Debangsu Basak, J.)

