

26.09.2022
Ct. no.21
Sl. No.16
Sanjay

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20557 of 2022

Tapas Kumar Chakrabarti
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari,
Mr. Syed Mansur Ali,
Sk. Imtiajuddinfor the petitioner.

Mr. Rupak Ghosh,
Mr. Ratul Das ...for the State.

Mr. Pinaki Dhole,
Mr. Avishek Prasad ...for the respondent no.3.

Affidavit of service filed in Court today be taken
on record.

The petitioner worked as Group-D staff under
the Judgeship of Uttar Dinajpur district. The
petitioner was employed in an exempted category and
his name was recorded with the competent authority
in the land loser category.

By an office order dated April 1, 2022 the
petitioner was given 'no objection' from the
administration of Uttar Dinajpur Judgeship to appear
in the Paper II Examination for the post of Lower
Division Clerk in Paschim Bardhaman Judgeship.
The said 'no objection' was issued by the District
Judge, Uttar Dinajpur at Raiganj. Pursuant to the
said 'no objection' the petitioner appeared for his
examination and by an office order dated August 10,
2022 issued by the District Judge, Paschim
Bardhaman his name was selected as Lower Division

Clerk, Group-C. The petitioner was required to join the services by August 11, 2022.

By a letter dated August 12, 2022 the petitioner made a representation to the learned District Judge, Uttar Dinajpur to accept his resignation from his present posting and release him from service with effect from August 16, 2022. The petitioner also wrote on August 20, 2022 to the learned District Judge, Paschim Bardhaman at Asansol for allowing him to join his duty at a later date.

Mr. Bari, learned counsel appearing on behalf of the petitioner submits that the petitioner was selected in Group-C category as Lower Division Clerk and there was no legally tenable reason for withholding his release order after necessary permission was granted to him for appearing in the examination in Paschim Bardhaman Judgeship. He further submits that, in the event, the resignation of the petitioner is accepted by the District Judge, Uttar Dinajpur and the release order is issued in his favour, the petitioner undertakes not to claim any service benefits from the previous employer/the Judgeship of Uttar Dinajpur.

Mr. Dhole, learned counsel appearing for the respondent No.3 submits that the petitioner himself had requested learned District Judge, Uttar Dinajpur to defer or postpone his release from the Judgeship. The said request was made on August 16, 2022 and was not brought on record while filing the writ petition on September 5, 2022. He further submits

that once a person is appointed in the exempted category he could not again be appointed in a further post in the same category. Therefore, the exemption card was required to be submitted by the petitioner for processing his release order but the same could not be done by the petitioner. Therefore, the petitioner could not be released from his earlier posting.

Having considered the rival submissions of the parties and the materials placed on record, I direct the learned District Judge, Paschim Bardhaman at Asansol/ respondent no. 5 to consider the representation of the petitioner dated August 20, 2022 as per the extant rules and policies. Such representation is to be considered within eight weeks from the date upon giving personal hearing to the petitioner. The representation of the petitioner is to be disposed of with a reasoned order and the same is to be communicated to the petitioner within two weeks of passing thereof.

Since no affidavits have been called for in the instant writ petition all the allegations made therein are deemed not to have been admitted by the respondents.

With the aforesaid directions, the writ petition being **WPA 20557 of 2022** is **disposed of**.

Needless to mention, if any letter of appointment in the meantime has been issued in favour of the petitioner, no cancellation of the same will be done till

such time the reasoned order is communicated to the petitioner.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

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

(Lapita Banerji, J.)