

Court No. 22
19.12.2022
(Item No. 35)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 24982 of 2022

Sri Rabindra Nath Sen
VS
The State of West Bengal & Ors.

Mr. Saumyen Datta
Ms. Dolon Dasgupta
... for the petitioner
Ms. Chaitali Bhattacharya
Mr. Subhendu Roy Choudhury
.....For the State
Mr. Monish Sen
Ms. Oisani Mukherjee
.... For respondent No. 3

Affidavit of service filed in Court today, is taken on record.

The petitioner claims for the benefit under a circular dated January 10, 1986, **Annexure P-2** at **page 16** to the writ petition for being promoted from **Lower Division Clerk** to **Upper Division Clerk**. The College authority had already complied with the requisition made by the respondent No. 2 and thereby sent the relevant records before it, **Annexure P-6** to the writ petition. The petitioner made demand for justice, through its learned advocate on September 21, 2022, **Annexure P-7** to the writ petition before respondent No. 2. The petitioner claimed that, such representation did not receive any attention.

Ms. Chaitali Bhattacharya, learned State counsel appearing for respondent Nos. 1 and 2 raised a serious objection as to the applicability of the circular dated January 10, 1986, Annexure P-2 to the

writ petition in respect of the petitioner in the facts of this case.

Considering the rival contentions of the parties and considering the materials on records this Court is of the firm view that to sub-serve justice respondent No. 2 shall consider the said representation of the petitioner made through his learned advocate dated September 21, 2022, **Annexure P-7** to the writ petition after giving at least seven days prior hearing notice to the petitioner and the respondent No. 3 and then after giving them an opportunity of hearing shall decide the issue with a reasoned order/decision strictly in accordance with law.

While considering the case of the petitioner the respondent No. 2 shall first consider the applicability of the said circular dated **January 10, 1986** in the case of the petitioner strictly in terms of law.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 2 positively within a period of six weeks from the date of communication of this order and the respondent No. 2 shall then communicate its reasoned decision/order to the petitioner and the respondent No. 3 within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merit of the claim of the writ petitioner in any manner including the question of applicability of the

relevant circular. All points will be kept open before the petitioner and the respondent No. 3 to urge by relying upon whatever documents and records they wish to rely upon before the respondent No. 2.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is further made clear that, this order shall not create any equity or right in favour of the petitioner in the event, the petitioner is not eligible to his claim strictly in accordance with law.

On the above terms, this writ petition being **WPA 24982 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)