

Item-1. 27-07-2023

FMA 255 of 2022  
CAN 1 of 2022

sg Ct. 8

Tapendu Khawas  
Versus  
The State of West Bengal & Ors.

Mr. Sudipta Dasgupta, Adv.  
Mr. Arkadeb Biswas, Adv.  
Ms. Sagota Dey, Adv.  
Mr. Sutirtha Nayek, Adv.

...for the appellant

Mr. Sirsanya Bandopadhyay, Adv.  
Ms. Tapati Samanta, Adv.

...for the State

The appeal is arising out an order dated 20<sup>th</sup> January, 2022 passed by the learned Single Judge in connection with a writ petition filed by the writ petitioner praying, inter alia, for considering the petitioner's promotion to the post of Assistant Librarian in the concerned Library. Since there is confusion as to whether he has submitted any letter on 11<sup>th</sup> July, 2010 and 22<sup>nd</sup> August, 2012, we have directed production of the original record wherefrom it appears that there is no existence of the letter dated 11<sup>th</sup> July, 2010. In fact, one of the reasons for dismissal of the writ petition is relying upon a document which was never tendered to the authority concerned.

There are also apparent inconsistencies between the letters dated 11<sup>th</sup> July, 2010 and 22<sup>nd</sup> August, 2012. However, it appears that he pursued BLIS course during 2015-16 and appears to have completed the said course successfully in the year 2017. In order to pursue the said course, it is essential that he should possess a bachelor decree. Admittedly, when he joined the Institution, he

was not holding B.A. degree. There was no prior approval on record. The statement that he was granted prior permission to pursue the BLIS course is also not established.

The record, however reveals that he had obtained 'no objection' before possessing BLIS course and he proceeded on a presumption that prior permission was granted to him for the purpose of obtaining BA degree. It cannot be disregarded that for pursuing BLIS course, one has to have a BA degree and in a given factious circumstances, it can be presumed that such prior permission was granted.

However, having regard to the fact that he has already completed the BLIS course, we direct the respondent no.2 to consider his prayer for promotion to the post of Assistant Librarian within four weeks from the date of communication of this order after giving a reasonable opportunity of hearing to the writ petitioner and also taking into consideration if the Institution would be benefited by acquiring of such higher qualification.

The impugned order is, accordingly, set aside. The appeal succeeds.

The appeal and the connected application are, accordingly, disposed of.

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

**(Uday Kumar, J.)**

**(Soumen Sen, J.)**