

12.9.2023

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WPA 10361 of 2023

Rabindra Nath Sen
Vs.
The State of West Bengal & Ors.

Mr. Sarajit Sen
Mr. Saumyen Datta
Ms. Dolon Dasgupta
... For the petitioner.

Mr. Monish Sen
Ms. Oisani Mukherjee
... For respondent nos. 3 & 4.

Mr. Subhrangsu Panda
Ms. Mithu Singha Mahapatra
... For respondent no. 5.

Let the affidavits filed by the parties be kept with the records.

In this writ petition, the petitioner has challenged a reasoned order dated March 02, 2023 passed by the Director of Public Instruction, West Bengal. By the said order, the claim of the petitioner for upgradation of his post from Lower Division Clerk to Upper Division Clerk has been rejected.

It appears that the petitioner was appointed as a Lower Division Clerk at Nistarini College, Purulia on July 12, 1999.

The petitioner made a prayer to the Principal of the College vide letter dated December 23, 2019 for upgradation of his post to Upper Division Clerk in

the light of a Government Order dated No. 60 - Edn. (CS) dated January 10, 1986.

The Governing Body of the College adopted a resolution in its meeting held on January 07, 2020 and forwarded the same to the Director of Public Instruction for his approval.

The relevant extract of the said governing body's resolution dated January 07, 2020 suggests that the number of students of the college was 2924 in August 2015 and therefore, the college was eligible for upgradation of one Lower Division Clerk post to Upper Division Clerk.

Even I accept the stand of the college that the students' strength of the college was 2924 in August 2015, I cannot grant any relief to the petitioner.

The claim of the petitioner is based on circular dated January 10, 1986 whereby the State directed that there would be conversion of one Lower Division Clerk post to Upper Division Clerk post for every 1100 students beyond roll strength of 1500.

The State subsequently, by issuance of a Circular dated October 05, 2018, changed the entire staff pattern of the Government-aided colleges and a different mode of appointment of Upper Division Clerk and Lower Division Clerk was laid down.

It appears that the petitioner had made his first representation only on December 23, 2019 and the

college had also made the representation to the Director of Public Instruction after the resolution for upgradation adopted on January 07, 2020.

The petitioner and the college sought to enforce a circular which was no more in force after the issuance of the Government Order dated October 05, 2018.

It cannot be said that the petitioner had an automatic right to upgradation on the increase of students' strength in view of the circular dated January 10, 1986. His entitlement to upgradation should have been determined by the competent authority in terms of the circular dated January 10, 1986 before issuance of the Government Order dated October 05, 2018.

Therefore, I am of the view that the petitioner cannot claim the benefit of the circular dated January 10, 1986, which was no more in force after the Government Order dated October 05, 2018.

Accordingly, **WPA 10361 of 2023** is dismissed.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)