

WPO No. 945 of 2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

JOYDEEP GHOSH
VERSUS
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE LAPITA BANERJI
Date: 12th May, 2023.

Appearance:
Mr. Debnath Ganguly, Adv.
Mr. Aranya Saha, Adv.
Mr. Supriyo Dutta, Adv.
Mrs. Aishwarya P. Ganguly.
For the petitioner.

Mr. Ranjay De, Adv.
Mr. Basabjit Banerjee, Adv.
For the respondent.

Mr. Tapan Kumar Mukherjee, Adv.
Ms. Tuli Sinha, Adv.
For the State.

The Court :- Affidavit of service filed in Court today is taken on record.

By an order dated November 18, 2022 this Court directed the Principal Secretary, Judicial Department, Government of West Bengal, to consider the representation of the petitioner within eight weeks and disposed of the same by way of a reasoned order. Such a reasoned order was passed by the Principal Secretary, Judicial Department, on December 15, 2022. The question that fell for consideration was whether only the holders of Bachelors' Degree working in the posts of Upper Division Assistant (UDA) will be considered for promotion to the higher posts of Bench Clerk, Grade-II or whether the persons without the

Bachelors' Degree will be also considered for promotion in the event they were working in the posts of UDA prior to 2021. The Principal Secretary was of the opinion that there exists an ambiguity in the interpretation of the rules. He was of the view that the rule with regard to the UDAs having to obtain Bachelors' Degree should be given prospective effect in respect of promotion. Furthermore, he was of the opinion that the interpretation of the rules was within the exclusive domain of the Hon'ble High Court and forwarded his reasoned order/opinion to the Registrar General, Hon'ble High Court at Calcutta under Rule 62 of the West Bengal District Courts (Constitution of Service and Recruitment, Appointment, Probation and Discipline of Employees) Rules, 2015.

It is the grievance of the writ petitioner that the Registrar General, Hon'ble High Court at Calcutta has not passed a reasoned order till date.

Mr. De, appearing for the respondent no.2/the Registrar General, submits that the petitioner has not been adversely affected by the implementation of the impugned rules.

Considering the submissions of the parties and the materials placed on record, this Court is of the view that the present writ petition is premature as no decision has yet been taken by the Registrar General, till date and therefore the question whether the decision making process is either arbitrary or capricious or perverse cannot be adjudicated by this Court, at present. Furthermore, this Court does not find any substance in the case of inaction sought to be made out by the petitioner. Reasonable time has to be given to the High Court administration to take a decision in the matter.

In the light of the discussions above, **WPO No. 945 of 2023** is **dismissed**. However, there would be no order as to costs.

Since no directions for filing affidavits have been invited in the present writ petition, all the allegations contained therein are deemed not to have been admitted by the parties.

All parties to act on a server copy of this order downloaded from the official website of this Court.

(LAPITA BANERJI, J.)