

27.03.2025
Sl. No. 12.
D/L.
Mithun
Ct.No.39.

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
WPA 913 of 2024**

**Asit Kumar Bag
Vs.
The State of West Bengal & Ors.**

Ms. Manali Biswas
..for the petitioner

Mr. Amitava Chaudhuri (through Virtual Mode),
Mr. N. Roy
...for the Nadia Zilla Parishad

Mr. Amal Kumar Sen,
Mr. Lal Mohan Basu
...for the State

Affidavit-of-service filed on behalf of the petitioner
is taken on record.

The writ petition has been filed for considering the
representation of the petitioner dated 5th April, 2023
within a stipulated period praying for considering him
for promotion to the post of Lower Division Assistant in
Nadia Zilla Parishad.

The petitioner contends that he joined in Nadia
Zilla Parishad as a Group-D on 14th March, 2007 and
has continuously discharged his function for the last 17
years. As per the method of recruitment contained in
West Bengal Panchayat (Recruitment and Conditions of
Appointment of Employees of Zilla Parishad) Rules,
1997, 90% of the total number of sanctioned posts in a
Zilla Parishad for Lower Division Assistant is to be made

by direct recruitment on obtaining, on requisition, the names of eligible candidates from the Employment Exchanges of the district and remaining process 10% by promotion on selection on the basis of merit-cum-seniority from amongst the eligible Group 'D' employees of the *Zilla Parishad* persons who have completed more than 10 years of service and has passed Madhyamik or equivalent examination with 50% aggregate marks. By a notification being No.261/PN/O/III/2E-31/99 dated 21st January, 2000, though the required qualification was unchanged i.e. passed in Madhyamik or equivalent examination but the aggregate of 50% marks was relaxed. Thus, the petitioner who has passed Madhyamik examination and completed more than 10 years of service in the *Zilla Parishad* ought to have been promoted to the post of Lower Division Assistant coming under 10% of the total vacancy. On 5th April, 2023, a representation was made before respondent no.6, District Magistrate, Krishnanagar, Nadia for promotion of the petitioner to the post of Lower Division Assistant. However, that has not been considered as yet. Hence this writ petition seeking appropriate direction upon the authority to consider the representation of the petitioner.

Ms. Manali Biswas, learned advocate for the petitioner submits upon coming into force of the notification dated 21st January, 2000, the earlier requirement of 50% aggregate marks in Madhyamik or

equivalent examination has been relaxed. Therefore, the petitioner, who has passed Madhyamik and has completed more than 10 years of service, is eligible to be promoted to the post of Lower Division Assistant. She seeks for appropriate direction.

Mr. Amitava Chowdhuri, learned Advocate representing respondent nos.6 to 9, *Nadia Zilla Parishad* appearing through virtual mode submits that a letter has been issued by the Additional Executive Officer, *Nadia Zilla Parishad* on 28th December, 2023 to the Joint Secretary, Government of West Bengal, Panchayat and Rural Development Department, respondent no.3 seeking clarification whether requirement of 50% aggregate marks in Madhyamik or equivalent examination is to be relaxed for promotion to the post of Lower Division Assistant. However, such reply/clarification is awaited from Joint Secretary, Government of West Bengal, Panchayat and Rural Development Department. For which reason, the *Nadia Zilla Parishad* is unable to take any decision with regard to the representation made by the petitioner for promoting him to the post of Lower Division Assistant.

On perusal of letter under Memo No.4822/NZP dated 28th December, 2023 at Page 54, Annexure-‘P-7’, it is found that the Additional Executive Officer, *Nadia Zilla Parishad* has made communication to respondent no.3, the Joint Secretary, Panchayats and Rural Development Department, Government of West Bengal seeking

clarification as to whether securing at least 50% marks in aggregate in Madhyamik or equivalent examination is necessary or not for considering eligibility of a Group-D candidate of Nadia *Zilla Parishad* for the promotion to the post of Lower Division Assistant. Admittedly, such clarification has still not been received by the Nadia *Zilla Parishad*.

In view of the above, respondent no.3, the Joint Secretary, Panchayats and Rural Development Department, Government of West Bengal is directed to clarify the query raised through letter dated 28th December, 2023 by respondent no.7, Additional Executive Officer, Nadia *Zilla Parishad* within a period of four weeks from date of communication of this order and shall communicate it to respondent no.7, Additional Executive Officer, Nadia *Zilla Parishad*.

Upon receipt of such clarification from respondent no.3, the Additional Executive Officer, Nadia *Zilla Parishad* shall consider and dispose of the representation of the petitioner dated 5th April, 2023 within a period of six weeks from date of receipt of such clarification.

Petitioner is directed to communicate this order to respondent no.3 and respondent no.7 along with copy of the representation dated 5th April, 2023.

It is made clear that this Court has not gone into the merits of this writ petition.

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

With the above observation, the writ petition being **WPA 913 of 2024** stands **disposed of**.

All connected applications, if any, stand disposed of.

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

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

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

(Bivas Pattanayak, J.)