

129.
6.10.2023
S.D.

**R.V.W. 128 of 2023
With
CAN 1 of 2023
in
W.P.A. 24068 of 2022**

**Suman Banerjee & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Debnath Ganguly
..For the Review Applicant
Ms. Pampa Dey Dhabal
Mr. Nikhil Gupta
Mrs. Krishna Deo Das
...For the petitioner/respondent no. 5
Mr. Rajarshi Basu
Mr. Manoj Kumar Mondal
...For the State
Mr. Saikat Banerjee
Mr. Karan prasad
...for the High Court Administration

This is a review application from an order dated June 8, 2023 passed by this Court. By the order dated June 8, 2023, this Court had set aside the order dated July 6, 2022 vide Order No. 95 passed by the learned District Judge, Bankura to the extent that the juniors of the petitioners as per the gradation list dated January 1, 2021 were allowed to supersede the petitioners.

The learned District Judge in partial modification of the Order No. 95 dated July 6, 2022 issued Order No. 82 dated

June 22, 2023. The learned District Judge passed Order No. 82 in compliance with this Court's order dated June 8, 2023. The gradation list of January 2021 was followed and the petitioners were given promotion with effect from August 1, 2021.

Mr. Ganguly, learned counsel appearing on behalf of the review applicant submits that the Gazette Notification was published on July 6, 2021. The effective date of the Gazette Notification is July 6, 2021 and, therefore, any promotional order, i.e. passed after July 6, 2021 has to be passed in accordance with the Gazette Notification. Therefore, on July 6, 2022, the learned District Judge passed the promotional correctly as the petitioners did not have the necessary qualification for promotion to the post of Upper Division Clerk or above.

Considering the submissions of the parties, this Court is of the view that the gradation list was drawn up on January 1, 2021. The promotion should have been effected in accordance with the said gradation list. The petitioners were placed above the private respondents in the said gradation list. The learned District Judge would not rely on the Gazette Notification of July 6, 2021 for passing the impugned order dated July 7, 2022 thereby taking away the accrued/vested

right of the writ petitioners which crystallized on January 1, 2021..

Accordingly, **R.V.W. 128 of 2023** is **dismissed**.

CAN 1 of 2023 is also accordingly **disposed of**.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

(Lapita Banerji, J.)