

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side**

Present:

The Hon'ble Justice Saugata Bhattacharyya

WPA 7958 of 2025

Manmohan Tudu

Versus

The State of West Bengal

For the Petitioner : Ms. Pampa Dey (Dhabal)
Mr. Biswarup Chatterjee

For the State : Mr. Himadri Sikhar Chakraborty
Ms. Susnita Saha

For the Respondent No.5 : Mr. Kaustav Bhattacharya
Mr. D. Mukherjee

For the Respondent No.7 : Mr. Ujjal Ray

Heard on : 05.01.2026

Judgment on : 05.01.2026

Saugata Bhattacharyya, J:

1. The matter is heard in presence of the learned advocates representing the parties.

2. In the writ petition a communication dated 12th November 2024 issued by the Joint Secretary to the Government of West Bengal, Judicial Department being respondent no. 2 is questioned whereby pay of the petitioner on mutual transfer was fixed at the

entry point pay applicable for the post of Lower Division Clerk (in short “LDC”) of sub-ordinate Courts.

3. It is submitted by the learned advocate representing the petitioner that he was working as Upper Division Clerk (in short “UDC”) under the judgeship at Paschim Bardhaman.

4. On the applications made by the petitioner and the respondent no. 7, they were mutually transferred. Consequently, the petitioner was transferred from judgeship of South 24-Parganas to the judgeship of Paschim Bardhaman.

5. The petitioner is aggrieved by the communication dated 12th November, 2024 made by the respondent no. 2 addressed to the District Judge Paschim Bardhaman whereby his pay was fixed at the entry point pay applicable for the post of LDC of sub-ordinate Courts in terms of G.O. No. 3338(13)-J dated 12th April 1972.

6. It is contended that as the petitioner was working as UDC in his previous posting he may be placed at the bottom of the gradation list not as LDC but UDC and his pay needs to be enhanced accordingly.

7. In addition thereto, it is also submitted that the respondent no. 7 on mutual transfer is presently working as UDC under judgeship of South 24-Parganas whereas on mutual transfer the

petitioner is working as LDC under the judgeship of Paschim Bardhaman.

8. Reliance is also placed on the judgment of the Hon'ble Division Bench dated 19th February, 2025 passed on an intra-Court appeal being **FMA 1019 of 2024 (Feroz Alam Vs. The State of West Bengal and Ors.)**.

9. Learned advocates representing the State respondents as well as District Judge Paschim Bardhaman being respondent no. 5 have jointly submitted that as it is not a case of transfer in the interest of public service rather it was a case of transfer on own volition of the petitioner, fixation of pay of the petitioner as well as his placement in the gradation list is required to be made in terms of G.O. No. 3338(13)-J dated 12th April, 1972.

10. Mr. Roy, learned advocate representing the respondent no.7 submits that at present respondent no. 7 is not working as UDC under judgeship of South 24-Parganas rather he is working as LDC.

11. In view of the submission made on behalf of the respondent no. 7 it appears that wrong submission was made on behalf of the petitioner that respondent no. 7 was working as UDC whereas petitioner is working as LDC after mutual transfer.

12. Moreover, as it is a case of mutual transfer of petitioner and respondent no. 7 on their own volition. Court finds that G.O

No.3338(13)-J dated 12th April, 1972 needs to be applied. In the communication dated 12th November, 2024 of the respondent no. 2 addressed to the District Judge Paschim Barwan taking note of the aforesaid Government Order Dated 12th April, 1972 it was decided that pay of the petitioner needs to be fixed at the entry point pay applicable for the post of LDC.

13. Court does not find anomaly in such decision of the respondent no. 2 with regard to pay fixation of the petitioner as it is provided in Government Order dated 12th April, 1972 that when a transfer is made based on application of an incumbent concerned he will not get any benefit of his past service either permanent or temporary in the sub-ordinate judgeship. In other words, his name will be at the bottom of the gradation list of both permanent and temporary employees of the District where he is transferred.

14. In **Feroz Alam** (supra) Hon'ble Division Bench vide judgment dated 19th February, 2025 succinctly decided that benefits which accrued in favour of an incumbent while working in previous post prior to transfer need to be extended in favour of such incumbent and by way of transfer release of those benefits ought not be denied.

15. In view of such decision of Hon'ble Division Bench in **Feroz Alam** (supra) it is clarified that if anything is payable to the petitioner in connection with his service as UDC under the judgeship of South

24-Parganas shall be released in his favour and ought not to be denied since he took mutual transfer.

16. With the aforesaid clarification writ petition stands disposed of.

17. There shall be no order as to costs.

18. Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)