

10-06-2026
Item No.14
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.11932 of 2026

Swapan Kumar Saha

-vs-

The State of West Bengal & Ors.

Mr. Tanmoy Chattopadhyay
Mr. Jay Laha ...for the petitioner

Ms. Aparna Banerjee, AGP
Mr. Brijendra Pratap Singh, JGA
Mr. Arghya Chatterjee ...for the State

1. The petitioner was initially serving in Group D post. He was thereafter promoted as Lower Division Clerk. On completion of the requisite years in service, he was further promoted to the post of Upper Division Clerk.
2. While serving as Upper Division Clerk he was notified that the date of his promotion to the post of Lower Division Clerk was erroneous. The promotion was made effective from a later date. The amount paid to him for his service in the promotional post was recovered as overdrawn payment.
3. Being aggrieved by the same the petitioner approached the West Bengal Administrative Tribunal for relief and prayed for interim order restraining the respondent authority from recovering any amount from his salary. On refusal to grant interim by the learned Tribunal, the petitioner approached this Court by filing petition which stood disposed of restraining the

respondents from recovering any amount from his monthly salary till the disposal of the Original Application.

4. Learned Tribunal was pleased to dispose of the Original Application filed by the petitioner before the Tribunal being OA No.404 of 2024 on January 16, 2025 directing the District Magistrate and Collector to refund the amount already recovered from the petitioner with further direction to take a final decision on the issue of change of date of promotion.
5. In compliance of the aforesaid direction a hearing was conducted by the authority on April 25, 2025, but the fate of the hearing has not been communicated. Steps have also not been taken to refund the amount already recovered from the petitioner. No steps have been taken with regard to the issue of change of date of promotion of the petitioner from the post of Group D to LDC.
6. A detailed representation by the petitioner is pending consideration before the District Magistrate & Collector, Uttar Dinajpur.
7. The petitioner submits that similarly placed candidates approached this Court by filing writ petition being WPST No.48 of 2023 on April 12, 2023 (Chittaranjan Biswas –vs- The State of West Bengal & Ors.) which stood disposed of by the Hon'ble Division Bench of this Court on April 12, 2023 by setting aside the order of recovery of overdrawn amount, further directing the authority to decide the issue of promotion following the principle of natural justice.
8. The petitioner asserts that he is similarly placed as that of Chittaranjan Biswas (supra) and prays for a direction upon the respondents to refund the

amount paid to him on account of serving in the promotional post in line with the order passed by the Court in Chittaranjan Biswas (supra).

9. Learned advocate for the State is yet to receive any instruction in the matter.
10. As the petitioner claims to be similarly situated as that of Chittaranjan Biswas (supra) decided by the Court, accordingly, the instant writ petition is disposed of by directing the District Magistrate & Collector, Uttar Dinajpur to take steps to ascertain as to whether the petitioner is actually similarly placed as Chittaranjan Biswas (supra).
11. If it transpires that the petitioner and Chittaranjan Biswas (supra) are similarly placed, then the authority shall refund the amount which was paid to the petitioner while he served in the promotional post of LDC without any delay.
12. A reasoned decision shall be passed as regards the retrospective change of the date of promotion in line with the order passed in the case of Chittaranjan Biswas (supra) at the earliest but positively within a period of twelve weeks from the date of communication of this order.
13. If required, a further hearing may be granted to the petitioner for clarification of facts.
14. As the petitioner would have been entitled to the refund from an earlier date, the authority shall refund the amount along with simple interest @ 6% p.a. to be calculated on and from the date of recovery till the date of refund.
15. All parties are to act on the server copy of this order duly downloaded from the official website of this Court.

16. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]