

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**Present :- The Hon'ble Justice Amrita Sinha**

**WPA 22703 of 2024  
with  
IA No. CAN 1 of 2025**

**Anindya Purkait & Anr.  
Vs.  
The State of West Bengal & Ors.**

|                                              |    |                                                        |
|----------------------------------------------|----|--------------------------------------------------------|
| For the writ petitioners                     | :- | Mr. Samrat Chakraborty, Adv.<br>Mr. Saikat Gayen, Adv. |
| For the District Judge,<br>South 24-Parganas | :- | Mr. Abdul Hamid, Adv.                                  |
| For the respondent no.5                      | :- | Rajat Dutta, Adv.                                      |
| Heard on                                     | :- | 1 <sup>st</sup> April, 2026.                           |
| Judgment on                                  | :- | 1 <sup>st</sup> April, 2026.                           |

**Amrita Sinha, J.:-**

1. The petitioners were serving as Typist/Copyist in the Supervisory Grade in the judgeship of South 24-Parganas. By an order dated 27<sup>th</sup> March, 2017, the petitioners were promoted to Grade-I with effect from 10<sup>th</sup> September, 2015 and 1<sup>st</sup> February, 2014, respectively. They were being paid in accordance with their promoted scale.

2. The petitioners are aggrieved as, by a subsequent order dated 4<sup>th</sup> April, 2024, their date of promotion has been unilaterally revised with effect from 1<sup>st</sup> March, 2020 and 1<sup>st</sup> September, 2020, respectively.

3. It has been submitted that the order revising the earlier promotion order was passed in violation of the principle of natural justice. No opportunity of hearing was given to them prior to passing the said order. The order of revising the promotion order is an unreasoned one.

4. The impugned order of revision of promotion also mentions that financial benefit granted to the promotees with effect from the date mentioned against each, will stand revised and recovery, if any, will be made accordingly.

5. According to the petitioners, they have been paid in the revised scale of pay since the date of promotion and the same ought not to be recovered for no fault of their own.

6. Prayer has been made to set aside the impugned order of revision of promotion.

7. Learned advocate representing the District Judge, South 24-Parganas, is not ready with instruction.

8. From the records of this case, it appears that when the matter was taken up for consideration by the Court on 5<sup>th</sup> December, 2024, the matter stood adjourned on the prayer of the learned advocate representing the

District Judge, South 24-Parganas to revert with instruction. The Court passed interim protection to the effect that the recovery of the alleged excess sum paid to the petitioners shall remain stayed till 31<sup>st</sup> January, 2025 or until further orders, whichever is earlier.

9. It appears that the interim order which was valid till 31<sup>st</sup> January, 2025 has not been extended. An application for extension of interim order was filed on 3<sup>rd</sup> September, 2025, i.e., long after its expiry. No coercive step has, however, been taken by the authority to recover the money in the meantime.

10. Today at the time of hearing, learned advocate for the District Judge, South 24-Parganas, again seeks accommodation.

11. As the matter is pending consideration for a considerable period of time, the Court is not agreeable to grant any further time by keeping the matter pending.

12. Submission of the petitioners that the impugned order of revision of promotion is an unreasoned order does not appear to be so on the face of it. The impugned order dated 4<sup>th</sup> April, 2024 clearly records that the reports/ recommendations of the Committee for promotion, preparation and finalization of Gradation List of the staff of the judgeship of South 24-Parganas was perused. It was detected that certain anomalies cropped up regarding seniority and reservation on the basis of the fifty point roster which required rectification.

13. Certain posts of Typist/Copyist in the Supervisory Grade and Grade-I fell vacant on retirement of the employees in both the categories. Certain disputes and ambiguities also cropped up regarding the promotional policy while implementing the West Bengal District Court Rules, 2015. The issues have not been resolved and were under consideration before the Hon'ble Court.

14. The promotion orders dated 13<sup>th</sup> January, 2015 and 27<sup>th</sup> March, 2017 were perused. It was found that fourteen vacancies arose within 1<sup>st</sup> August, 2014 and 5<sup>th</sup> July, 2021 in the Supervisory Grade, out of which six vacancies were filled up vide order dated 27<sup>th</sup> March, 2017. Whereas, twenty-six vacancies arose in Grade-I in between 1<sup>st</sup> February, 2014 and 5<sup>th</sup> July, 2021, out of which sixteen vacancies were filled up vide promotion order dated 27<sup>th</sup> March, 2017.

15. Learned District Judge, South 24-Parganas, opined that considering the Final Gradation List as it stood on 1<sup>st</sup> January, 2017 and in view of the recommendation of the Committee, certain Typists/Copyists Grade-I were found suitable in terms of OPR and were promoted to the Supervisory Grade along with six already promoted Supervisors with revised effect and revised roster position in accordance with the fifty point roster. The petitioner no.1's date of promotion stood altered from 10<sup>th</sup> September, 2015 to 1<sup>st</sup> March, 2020 and the petitioner no.2's promotion date stood altered from 1<sup>st</sup> February, 2014 to 1<sup>st</sup> September, 2020.

16. The fact narrated hereinabove is a clear indication that the District Judge, South 24-Parganas applied his mind and came to a specific finding that the promotion order which was passed on 27<sup>th</sup> March, 2017 was erroneous. The petitioners cannot be permitted to enjoy any financial benefit erroneously allowed to them which they are not entitled to in law as the same will amount to unjust enrichment. Payment to the employees is made from the State exchequer. Any payment made over and above the entitlement would not be permissible. Moreover, the petitioners have enough service period left and it is well within the authority's right to rectify any error in grant of service benefit during this period. If a contrary stand is taken, then the employer will never be in a position to rectify the error that may have inadvertently cropped up in the service record of an employee and the employee would be unduly benefited because of such error.

17. As regards the allegation of non-compliance of the principle of natural justice, the same cannot be accepted in view of the fact that the authority had every right to rectify an error which comes to its notice during the service tenure of the employee, subject to the restriction laid down by the Hon'ble Supreme Court in the matter of ***State of Punjab & Ors. vs Rafiq Masih (white washer) & Ors.*** reported in ***(2015) 4 SCC 334***. For the purpose of rectification of an administrative order, there is no requirement of affording prior opportunity of hearing. In fact, while passing the order of promotion, the promotees were not heard.

18. As regards the prayer of the petitioners restraining the authority from recovering the alleged excess amount paid to them, the Court is of the opinion that as the petitioners were no way responsible for the error which cropped up while passing the order of promotion and the petitioners were not responsible for the additional amount which were paid to them because of their promotion, accordingly, it will be improper for the authority to recover the amount already paid. The authority may adjust the amount with the salary to be received by the petitioners in easy instalments till the excess amount stands liquidated.

19. The writ petition stands disposed of.

20. No costs.

21. In view of the disposal of the writ petition, the connected application, being CAN 1 of 2025, also stands disposed of.

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

23. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**(Amrita Sinha, J.)**