

Form No. J(2)
Item No. DL/11
ARPAN – A.R. (CT)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. NO. 28691 OF 2025

BIREN TUDU

Vs.

THE STATE OF WEST BENGAL & OTHERS

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner	: Ms. Pampa Dey Dhabal, Adv. Ms. Sangita Banerjee, Adv.
For the State	: Mr. Tapan Kumar Mukherjee, AGP Mr. Pinaki Dhole, Adv. Mr. Somnath Naskar, Adv.
For the High Court Administration	: Mr. Victor Chatterjee, Adv.
For the Respondent No.3	: Mr. Debjit Mukherjee, Adv. Ms. Priyanka Jana, Adv.
For the Respondent Nos.5 to 8	: Mr. Subhendu Sengupta, Adv.
Hearing concluded on	: 27.01.2026
Judgment On	: 27.01.2026

SAUGATA BHATTACHARYYA, J.:

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

2. Matter is heard extensively in presence of the learned advocates representing the petitioner and the respondents.
3. Claiming promotion from Bench Clerk Grade-III/Upper Division Clerk to Bench Clerk Grade-II/Additional Supervisory post of Head Clerk present writ petition was instituted. Challenge has been thrown to an order dated 2nd August, 2025 of the District Judge, Paschim Bardhaman being respondent no.3 whereby respondent nos.5 to 8 have been promoted to the post of Bench Clerk Grade-II/Additional Supervisory post of Head Clerk.
4. Learned advocate representing the petitioner submits that petitioner is a scheduled tribe category candidate. Therefore, by reservation of one post in the next higher cadre petitioner ought to have been promoted. It is also contended on behalf of the petitioner that as petitioner is senior to respondent nos.5 to 8 in terms of respective dates of appointment, altering respective seniority positions of the petitioner *vis-à-vis* respondent nos.5 to 8 in the gradation list, petitioner was required to be treated as senior and as such petitioner was entitled to be promoted to Bench Clerk Grade-II.
5. Learned advocates representing the State respondents, respondent no.3 and respondent nos.5 to 8 have jointly opposed this writ petition.
6. At the threshold, it is brought to the notice of this Court that petitioner was working under the judgeship of Purba Medinipur and in consideration of petitioner's application for inter-district transfer,

petitioner was transferred to the post of Lower Division Clerk in terms of relevant scheme of inter-district transfer from the judgeship of Purba Medinipur to the judgeship of Burdwan *vide* transfer order dated 9th January, 2014 issued by the District Judge, Burdwan.

7. It was specified in the transfer order dated 9th January, 2014 that petitioner shall be placed at the bottom of the gradation list of Lower Division Clerk in the judgeship of Burdwan and petitioner shall not be entitled to get the benefit of promotion in reserved category as per relevant scheme of inter-district transfer formulated by the Hon'ble High Court.
8. It is also contended on behalf of the respondents that such conditional order of transfer dated 9th January, 2014 has not been annexed to this writ petition and it has also not been disclosed in the writ petition that by dint of transfer order dated 9th January, 2014, petitioner will not be entitled to the benefit of promotion under reserved category. According to the respondents, petitioner has suppressed material facts in this writ petition.
9. In reference to gradation list, which is annexed at page 51 of the writ petition, it is contended on behalf of the respondents that all the four respondents who were favoured with promotion were appointed in 2012 in the post of Lower Division Clerk whereas petitioner's appointment as Lower Division Clerk under the judgeship of Burdwan was treated from 9th January, 2014 by dint of order of transfer dated 9th January, 2014.

Therefore, it is submitted that petitioner is junior to respondent nos.5 to 8.

10. On posing query to the learned advocate representing the petitioner as to why transfer order dated 9th January, 2014 has not been disclosed in this writ petition, attention of this Court has been drawn to the averments made in paragraph 4 of the writ petition wherefrom it appears petitioner was transferred on 9th January, 2014 from the judgeship of Purba Medinipur to the judgeship of Burdwan in the post of Lower Division Clerk and petitioner was required to be placed at the bottom of the gradation list in the cadre of Lower Division Clerk under the judgeship of Burdwan.
11. Surprisingly, it has not been disclosed that by dint of transfer order dated 9th January, 2014 petitioner has lost his claim to be considered as reserved category candidate (ST). Therefore, it transpires that petitioner has tacitly made averments in paragraph 4 of the writ petition in order to suppress the material fact that by dint of order of transfer dated 9th January, 2014, petitioner lost his claim to be treated as Scheduled Tribe candidate in the matter of promotion to the next higher cadre.
12. Copy of the transfer order dated 9th January, 2014 issued by the District Judge, Burdwan is placed before this Court by the learned advocates representing respondent no.3 and respondent nos.5 to 8 and same is taken on record.

13. Order of transfer was issued on 9th January, 2014 which was accepted by the petitioner and no challenge was laid against such transfer order. Therefore, today while deciding right of the petitioner to be considered for promotion in the next higher cadre, this Court is required to proceed on the basis of such order of transfer dated 9th January, 2014.
14. Argument has also been advanced on behalf of the petitioner to the extent that petitioner is senior to respondent nos.5 to 8 but in consideration of gradation list, which is at page 51 of the writ petition, it appears all those four respondents were appointed in the post of Lower Division Clerk in 2012 whereas appointment of the petitioner in the cadre of Lower Division Clerk was considered as 9th January, 2014 in terms of transfer order dated 9th January, 2014.
15. Notwithstanding initial appointment of the petitioner under the judgeship of Purba Medinipur in 2011, petitioner needs to be treated as appointed on 9th January, 2014 in the post of Lower Division Clerk under the judgeship of Burdwan by dint of transfer order dated 9th January, 2014 issued by the District Judge, Burdwan in terms of the relevant provision of the scheme relating to inter-district transfer.
16. Therefore, it is apparent that as per the gradation list prepared by the concerned authority of the judgeship of Paschim Bardhaman, petitioner is junior to respondent nos.5 to 8.
17. Therefore, Court does not find anomaly in the order dated 2nd August, 2025 issued by the respondent no.3 whereby promoting respondent

nos.5 to 8 to the post of Bench Clerk Grade-II/Additional Supervisory post of Head Clerk.

18. Hence, writ petition stands dismissed.
19. However, it is alluded hereinabove that petitioner by suppressing material fact has attempted to mislead this Court in order to obtain an order for his promotion to the next higher cadre. Such conduct of the petitioner is deprecated.
20. Cost of ₹25,000/- is imposed upon the petitioner which shall be deducted in three instalments; ₹10,000/-, ₹10,000/- and ₹5,000/- from the monthly salary of the petitioner by the District Judge, Paschim Bardhaman and same shall be transmitted to the West Bengal State Legal Services Authority.
21. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(SAUGATA BHATTACHARYYA, J.)