

**10/09
2026**

**AD/438/18
266312
NANDY**

(DO)

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA/25804/2014

**BIPLAB BANERJEE
VS
THE STATE OF WEST BENGAL & ORS.**

Mr. Tanmoy Chowdhury, Advocate
Ms. Ritoprita Ghosh, Advocate

.....for the Petitioner

Mr. Sahasrangshu Bhattacharjee, Advocate
Mr. Jaganath Chatterjee, Advocate

.....for the State

1. The petitioner is aggrieved that In spite of being promoted to the post of Group-D staff, the order of promotion was thereafter withdrawn on 08.01.2014, thereby demoting him to his earlier post of peon.
2. The petitioner had joined service sometime in 2006 as a peon and continued in such post without any promotion, which prompted him to approach this Hon'ble Court by way of a writ petition.
3. The writ petition being WP 23505 (W) of 2010 was disposed of, directing the authorities to consider the case of the petitioner in terms of the memo dated 22.03.2012.
4. In terms of the afore-stated order of this Hon'ble Court, the authorities considered the candidature of the petitioner and issued an office memorandum dated 10.07.2012, thereby promoting the petitioner to the post of Lower Division Clerk (in short LDC).
5. After serving for almost one year and six months, the petitioner was served with a

memorandum dated 08.01.2015, holding, *inter alia*, that in view of applicable memorandums and especially the Rules of 2007, the promotion of the petitioner was withdrawn and the petitioner was reverted back to his original post, that is, Group D staff. It is this withdrawal of promotion of 08.01.2014 that has been challenged by way of this writ-petition.

6. The notification of March 14, 2007, relating to promotion, in Appendix-I Part-A specifies at serial number 4 that the post of Lower Division Clerk is a post which is to be filled up by selection (Direct Recruitment).
7. The petitioner is a peon and could at best have been promoted to the post of Daftary, as indicated in Part-B of Appendix-I at serial number 5.
8. Evidently, there has been a mistake on the part of the authorities in granting the promotion to the petitioner from the post of Group-D staff to LDC. This could not have been done.
9. Even though Mr. Choudhury, learned Advocate for the petitioner, has placed reliance on an office Memo being 7065-F dated June 22, 1995, whereby 10% vacancies have been reserved to be filled up from amongst eligible Group C and Group D employees.
10. However, as submitted by Mr. Bhattacharya, learned Advocate, appearing for the

respondent authorities, this memo has been issued by the Finance Department and does not apply to the petitioner who is not a government employee, as he is employed by the West Bengal Primary School Council.

11. In any event, after the coming of the Rules by way of the notification dated 14th March 2007, relating to the West Bengal Primary Education (Appointment and Punishment of Staff of Primary School Councils) Rules 2007, the said office memorandum of 1995 loses relevance. It is indisputable that the petitioner is guided by the Rules of 2007.
12. A mistake or an error committed by an authority cannot clothe a person with any additional right. If an error has been committed, the authorities have every right to rectify the same. The authorities are well within their right and have rightly rectified the same and withdrawn the promotion given to the petitioner. The petitioner, therefore, cannot claim any vested right on the basis of an erroneous step taken by the authorities.
13. That having been said, this much is also indisputable that the petitioner had rendered service in the promotional post of LDC from the date of his appointment on 10.07.2012 till the withdrawal thereof on 08.01.2014.
14. In view thereof, for the truncated month of July 2012 till the truncated month of January 2014, the petitioner will be entitled to arrears of pay of the post of LDC. The petitioner will

also be entitled to an additional amount of Rs.50,000/- on account of compensation for any ignominy that may have been caused to him due to the withdrawal of his promotion.

15. The authorities are directed to quantify the amount payable on account of arrears of pay along with the sum of Rs.50,000/- and disburse the same by October 12, 2026.
16. With the afore-stated directions, the writ petition is **disposed of**. No order as to costs.

(Reetobroto Kumar Mitra, J.)