

Malay Bhattacharyya

Advocate

HIGH COURT, CALCUTTA
Bar Association, Room No. 15

Residence & Chamber :

826, 2 No. Bachar Para Road

Vivekananda Park

Thakurpukur, Kolkata-700 063

Mobile : 9433071962, 9830753947

E-mail : malaycourt@gmail.com

Date *27/04/16*

TO

The Learned Government Pleader
High Court, Calcutta

In Re: WP NO. *7750* (W) of *2016*

Sri Swadesh Ranjan Pathak

-Vs-

The State of West Bengal & Ors.

Sir,

Please find enclosed herewith a copy of the aforesaid Writ Petition along with its all annexures which has been filed before The Hon'ble High Court at Calcutta and the aforesaid matter will be come up for hearing before The Hon'ble Justice *Sanjiv Banerjee* on *12/05/16* or soon thereafter.

Please attend at the time of hearing of the aforesaid matter.

Encl: Copy of the petition with all annexures.

Yours faithfully,

Malay Bhattacharyya
Advocate

DISTRICT: BANKURA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W. P. No. 7750(W) of 2016

In the matter of:

An application under Article 226 of the Constitution of India.

Subject matter relating to Residuary;

Group - (VI), Head - (1) of the
Classification List;

Cause Title:

Sri Swadesh Ranjan Pathak.

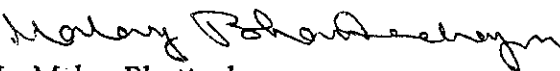
..... Petitioner

- V E R S U S -

The State of West Bengal & Ors.

..... Respondents

Advocate on Record:


Mr. Malay Bhattacharyya,
Advocate
High Court, Calcutta
Bar Association, Room No.15

DISTRICT: BANKURA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P. No. (W) of 2016.

Sri Swadesh Ranjan Pathak.

....Petitioner

VERSUS

The State of West Bengal & Ors.

.....Respondents.

INDEX

Sl.No.	Description of documents	Annexure	Page No.
1.	Writ Petition	1 to 24,
2.	A copy of the Memo dated 20.07.2009.	P-1	25 - 31,
3.	A copy of the Memo dated 06.08.2015.	P/2	32 - 33
4.	A copy of the Memo dated 17.09.2015.	P/3	34 -
5.	A copy of the Memo dated 24.09.2015.	P/4	35 - 37,
6.	A copy of the Memo dated 26.11.2015.	P/5	38.
7.	Copies of the Memo dated 18.12.2015 and 05.02.2016.	P/6	39 - 43.
8.	A copy of the Order dated 02.02.2012.	P/7	44 - 45,
9.	A copy of the Order dated 11.08.2015.	P/8	46 - 47.

LIST OF DATES

- 20.07.2009 The Judicial Department, Government of West Bengal vide Memo No. 5140J set forth the modes for implementation of the recommendations of the Shetty Commission for the Staffs attached to the Process Serving establishment in the Sub-Ordinates Courts in the State along with Regular Recruitment Rules, Promotion Policies and Qualifications etc. w.e.f. 01.04.2003. The same is issued with concurrence of Finance (A) Department vide U.O. No. 1561-Gr 'P' (Service) dated 01.06.2009.
- 06.08.2015 The Petitioner has submitted an application before the Learned District Judge, Bankura with a prayer for implementation of the Recommendations of Shetty Commission admissible in terms of Memo dated 20.07.2009 as referred hereinbefore so as to submit His candidature for Promotion in the Post of Lower Division Clerk from Group-D Cadre. The Application of the Petitioner has been forwarded through proper channel vide Memo No. 242 by the Office of the Learned Civil Judge (Junior Division), Bishnupur.
- 17.09.2015 The Petitioner preferred one Application under Right to Information Act, 2005 and the information furnished to the Petitioner vide Memo No. 710 does reveal that the Judgeship in Bankura has 'not implemented' the Recommendations of Shetty Commission regarding promotion of Process Servers and other

Group-D Employees in the Post of Lower Division Clerk at the ratio of 1:2 to the extent of 25% in the L.D.C. Cadre.

24.09.2015 The Petitioner submitted an appeal in terms of Rule 21 of West Bengal Government Servants Conduct Rules, 1959 through proper channel before the Secretary, Government of West Bengal, Judicial Department praying implementation of the Recommendations of the Shetty Commission as admissible vide Memo No. 20.07.2009. The Petitioner also submitted the Appeal in compliance of Rule 6 of West Bengal Service (Duties, Rights and Obligations of the Government Employees) Rule, 1980. A copy of the Appeal / Application is duly forwarded to the Respondent No.4 by the Office of the Learned Civil Judge (Junior Division), Bishnupur vide Memo No. 283.

26.11.2015 The Secretary, Government of West Bengal, Judicial Department vide Memo No. 616-JD/X/16M-20/15 requested the Respondent No.4 to implement the recommendation of the Shetty Commission for the Staffs attached to the Process Serving establishment regarding promotion policies.

18.12.2015 &
05.02.2016 The Petitioner made Applications one after another on 18.12.2015 and again on 05.02.2016 praying implementation of the Recommendation of the Shetty Commission with regard to the

Promotion of Process Servers and Group-D Employees in the L.D.C. Cadre. The Applications as aforesaid have been forwarded through proper channel before the concerned Respondent vide Memo No. 316 and memo No. 30.

02.02.2012 Purport compliance of the Memo dated 20.07.2009 being Annexure - P/1 to the instant Writ Petition and in consideration of an alleged Report by the Review Committee, the Office of the Respondent No.4 issued Order No. 29 whereby and whereunder save and except the three (3) Seal Bailiffs, other process Servers within the Judgeship of Bankura have been adjudged to be beyond the purview of the Notification dated 20.07.2009 for implementation of the Recommendations made by the Shetty Commission.

11.08.2015 That for filling up 25% of the ten (10) vacancies in the category of Lower Division Clerk within the Judgeship of Bankura, the Office of the Respondent No.4 vide Order No. 230, Promoted Respondent No.5 in the Post of L.D.C. Clerk w.e.f. 19.08.2015 from the post of Seal Bailiff in purported compliance of the Recommendations made by Shetty Commission as mandated vide Government Notification dated 20.07.2009 being Annexure - P/1 to the instant Writ Petition.

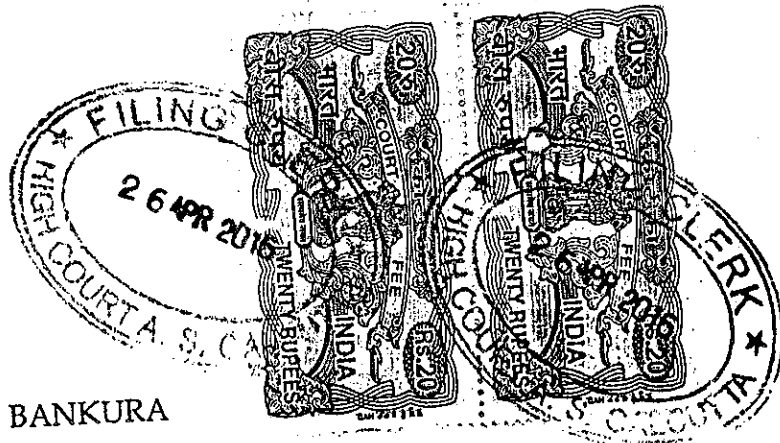
POINTS OF LAW

- I. Whether the acts and activities of the Respondent Authorities in depriving the Petitioner Promotion to the Post of Lower Division Clerk by refusing to implement the Recommendations of Shetty Commission with retrospective effect on and from 01.04.2003 in the facts and circumstances of the case are all illegal, malafide, opposed to all norms of Procedural and other Natural Justices as also without any Jurisdiction;
- II. Whether in a clear instance of administrative anarchism a Government machinery has openly refused to implement and/or disobeyed the Government Order relating to implementation of the Recommendations of Shetty Commission to which this Hon'ble Court may be pleased to take appropriate Judicial Notice;
- III. Whether the Judgeship in Bankura is under a liability / obligation to implement the Government Notification being 5140J dated 20.07.2009 for implementation of the Recommendations of Shetty Commission.
- IV. Whether Seal Bailiffs are not entitled to Promotion in the Post of Group-D as per the Recommendation of the Shetty Commission since they are not at par with the Process Servers in terms of Government Notification being 5140J dated 20.07.2009 and on that ground alone the

impugned Order No. 230 dated 11.08.2015 and Order No. 29 dated 02.02.2012 is liable to be set aside by this Hon'ble Court;

- V. Whether the concerned Authorities are under the obligation / liability to fill up the Promotional Posts in the L.D.C. Cadre i.e. 25% of all the vacant L.D.C. Posts @ 1:2 i.e. 1(one) from Process Server and (2) from existing Group-D Employees w.e.f. 01.04.2013 in terms of Government Notification 5140J dated 20.07.2009 and as such allow the Petitioner to come under the Zone of consideration for such Promotion as per the Gradation List as on 01.01.2015;

Shri
M. S. Chatterjee
Advocate



DISTRICT: BANKURA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELATE SIDE

W.P. No. 7750 (W) of 2016.

In the matter of:

An Application under Article 226 of the
Constitution of India.

-And-

In the matter of:

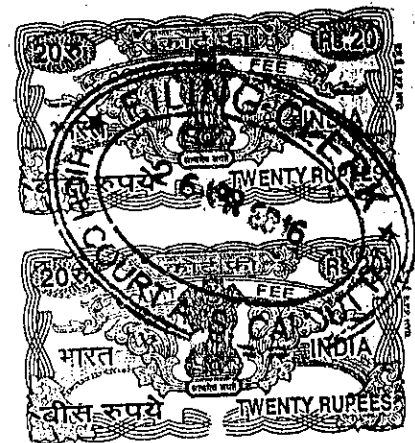
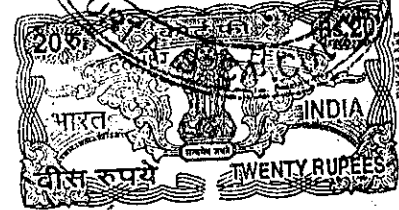
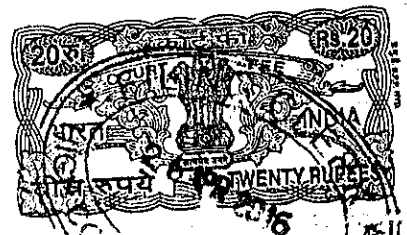
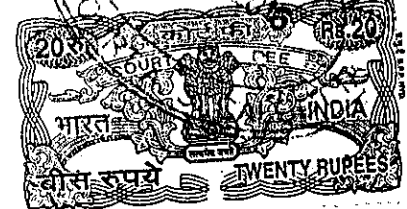
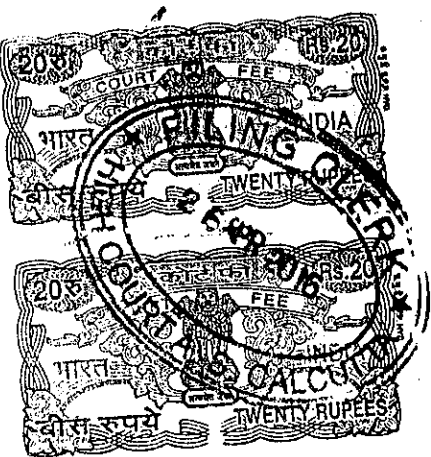
Writ/ Order/ Direction in the nature of
Mandamus and/or Prohibition and/or
Certiorari and/or any other Writ/Writs
and/or Order/Orders and/or Direction
/Directions;

-And-

In the matter of:

Arbitrary, illegal and/or malafide
decision by the Respondent Authorities

19367



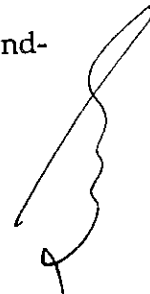
to deprive the Petitioner Promotion to the post of Lower Division Clerk in the Cadre of Non-Judicial Staffs in the District Court, in violation of the Recommendations made by the Shetty Commission which are being upheld by the Hon'ble Apex Court in Writ Petition (Civil) No. 1022/1989 as law under Article 141 of the Constitution of India;

-And-

In the matter of:

Order No. 29 dated 02.02.2012 and Order No. 230 dated 11.08.2015 issued by the Office of the District Judge, Bankura in violation of Memo No. 5140-J/S-25/04 (Pt.VI) dated 20.07.2009 issued by the Judicial Department, Government of West Bengal;

-And-



In the matter of:

Memo No. 616 ID/X/16M-2015 dated
26.11.2015 of the Judicial Department,
Government of West Bengal, Writers'
Building, Kolkata - 700001;

-And-

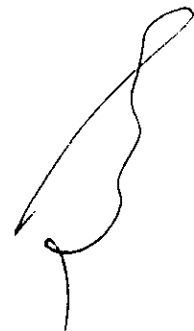
In the matter of:

Violation and/or infringement of Rights
guaranteed under Articles 14, 16 and 21
of the Constitution of India;

-And-

In the matter of:

Sri Swadesh Ranjan Pathak, Son of Late
Khitish Chandra Pathak, resident of
Village & P.O. - Fulkushma,
Khattagram, P.S. - Indpur, District -
Bankura, PIN - 722173, now residing at
Block D2/3, Govt. Housing, Near HP



Gas Office, P.O. & P.S. - Bishnupur,

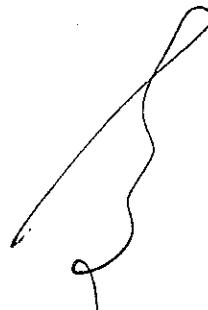
District - Bankura, PIN - 722122.

.....Petitioner.

-Versus-

1. The State of West Bengal,
through the Secretary, Government of
West Bengal, Judicial Department,
Writers Buildings, Kolkata - 700001.
2. The High Court, Calcutta,
through the Registrar General, High
Court, Calcutta, Kolkata - 700001.
3. The Registrar Judicial, High
Court, Calcutta, Kolkata - 700001.
4. The District Judge, Bankura, P.O.
& P.S. - Bankura, District - Bankura,
PIN - 722101.

..... Respondents



5. Sri Sudhamoy Choudhury
(Nazrath Clerk), Nazrath Department,
District Judges' Court, Bankura, P.O. &
P.S. - Bankura, District - Bankura, PIN -
722101.

6. Kartick Chandra Nayek (Clerk),
Additional District & Session Judge,
Bishnupur, P.O. & P.S. - Bishnupur,
District - Bankura, PIN - 722122.

7. Sikha Banerjee (Clerk),
Additional District Judge 3rd Court,
Bankura, P.O. & P.S. - Bankura, District
- Bankura, PIN - 722101.

8. Kaliram Murmu (H.C.C),
copying Department, Criminal Section,
A.C.J.M. Court, Bishnupur, P.O. & P.S. -
Bishnupur, District - Bankura, PIN -
722122.

.... ~~Proforma~~ Respondent

To

The Hon'ble Mrs. Manjula Chellur Chief Justice and Her Companion Justices of
the said Hon'ble Court.

The humble Petition of the
Petitioner above named -

MOST RESPERCTFULLY SHEWETH:

1. That Your Petitioner is a law abiding Citizen of India and is residing at the
address appended in the cause title of the instant Writ Petition.
2. That the Respondent Authorities are State and/or Statutory Bodies as
enumerated in List-II(65) under the VIIth Schedule of the Constitution of India
discharging powers and responsibilities of State within the meaning of Article 12
of the Constitution of India and as such they are amenable to the Writ
Jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.
3. That the Petitioner states that on 01.11.2006 the Petitioner joined in the
Judgeship of Bankura under Jurisdiction of Respondent No.4 as a Non-Judicial
Group-D Staff and presently holding the post of an Ejlash Peon i.e. a qualified
Group-D Post in the Court of Civil Judge (Junior Division), Bishnupur within the
establishment of Learned District Judge, Bankura.

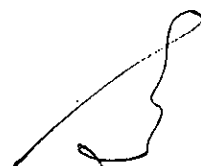


4. That the Petitioner states that the Respondent No.5 who has joined in the Judgeship of Bankura on 19.07.1978 and was holding the Post of Seal Bailiff within the process Establishment in the District's Judges Court, Bankura as on 01.01.2015 is being Promoted in the Post of Lower Division Clerk i.e. a Group-C post w.e.f. 19.08.2015 vide impugned Order dated 11.08.2015 issued by the Office of Respondent No.4.

It is further stated that the Proforma Respondent who has joined in the Judgeship of Bankura on 11.04.1997 and was holding the Group-D Post of an Office Peon in the Court of the Learned Additional District Judge, Bishnupur as on 01.01.2015 is being Promoted in the Post of Lower Division Clerk i.e. a Group-C post w.e.f. 19.08.2015 vide impugned Order dated 11.08.2015 issued by the Office of Respondent No.4.

The Petitioner craves leave of this Hon'ble Court to refer the Gradation List in respect of Process Servers and Group-D employees in the Judgeship of Bankura as on 01.01.2015 at the time of hearing of the instant Writ Petition.


5. That the Petitioner states that in terms of Article 141 of the Constitution of India, the Hon'ble Supreme Court in its Solemn Order dated 07.10.2010 Passed in Writ Petition (Civil) No. 1022/1989 (All India Judges Association -Vs.- Union of India) Directed the States to implement the Recommendations of 1st National



Judicial Pay Commission i.e. Shetty Commission which framed the Pay Structures and Service Conditions of Subordinate Court Employees. It is a Clear guide line regarding payment of allowances and improvement of service conditions of the Non-Judicial Staffs likewise the Petitioner and Private Respondents in District and Subordinate Courts in the State. There is a mandate under the said guideline that financial implication shall be implemented with retrospective effect i.e. on and from 01.04.2003.

6. That the Petitioner states that the Judicial Department, Government of West Bengal vide Memo No. 5140J dated 20.07.2009 set forth the modes for implementation of the recommendations of the Shetty Commission for the Staffs attached to the Process Serving establishment in the Sub-Ordinates Courts in the State along with Regular Recruitment Rules, Promotion Policies and Qualifications etc. w.e.f. 01.04.2003. The same is issued with concurrence of Finance (A) Department vide U.O. No. 1561-Gr 'P' (Service) dated 01.06.2009.

A careful scrutiny of the Memo dated 20.07.2009 shall further reveal that the same mandates Reservation in Group-C posts i.e. in the clerical cadre at the Entry Level with an emphasis that 'Process Servers with requisite qualification shall be considered for Promotion with other categories of Group-D Employees



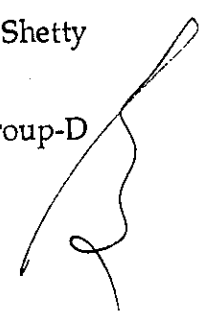
to the extent of 25% in L.D.C. Cadre in the ratio of 1:2 (Process Server-1 and other Group-D Employees-2).

A copy of the Memo dated 20.07.2009 as aforesaid is annexed hereto and marked as Annexure - P/1 to the instant Writ Petition.

7. That the Petitioner states that the Petitioner on 06.08.2015 has submitted an application before the Learned District Judge, Bankura with a prayer for implementation of the Recommendations of Shetty Commission admissible in terms of Memo dated 20.07.2009 as referred hereinbefore so as to submit His candidature for Promotion in the Post of Lower Division Clerk from Group-D Cadre. The Application of the Petitioner has been forwarded through proper channel vide Memo No. 242 dated 06.08.2015 by the Office of the Learned Civil Judge (Junior Division), Bishnupur.

A copy of the Memo dated 06.08.2015 as aforesaid is annexed hereto and marked as Annexure - P/2 to the instant Writ Petition.

8. That the Petitioner states that in the mean time Petitioner preferred one Application under Right to Information Act, 2005 and the information furnished to the Petitioner vide Memo No. 710 dated 17.09.2015 does reveal that the Judgeship in Bankura has 'not implemented' the Recommendations of Shetty Commission regarding promotion of Process Servers and other Group-D



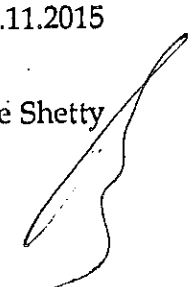
Employees in the Post of Lower Division Clerk at the ratio of 1:2 to the extent of 25% in the L.D.C. Cadre.

A copy of the Memo dated 17.09.2015 as aforesaid is annexed hereto and marked as Annexure - P/3 to the instant Writ Petition.

9. That the Petitioner states that the Petitioner on 24.09.2015 submitted an appeal in terms of Rule 21 of West Bengal Government Servants Conduct Rules, 1959 through proper channel before the Secretary, Government of West Bengal, Judicial Department praying implementation of the Recommendations of the Shetty Commission as admissible vide Memo No. 20.07.2009 being Annexure - P/1 to the instant Writ Petition. The Petitioner also submitted the Appeal in compliance of Rule 6 of West Bengal Service (Duties, Rights and Obligations of the Government Employees) Rule, 1980. A copy of the Appeal / Application is duly forwarded to the Respondent No.4 by the Office of the Learned Civil Judge (Junior Division), Bishnupur vide Memo No. 283 dated 24.09.2015.

A copy of the Memo dated 24.09.2015 as aforesaid is annexed hereto and marked as Annexure - P/4 to the instant Writ Petition.

10. That the Petitioner states that the Secretary, Government of West Bengal, Judicial Department vide Memo No. 616-JD/X/16M-20/15 dated 26.11.2015 requested the Respondent No.4 to implement the recommendation of the Shetty



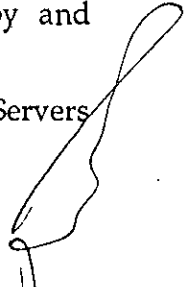
Commission for the Staffs attached to the Process Serving establishment regarding promotion policies.

A copy of the Memo dated 26.11.2015 as aforesaid is annexed hereto and marked as Annexure - P/5 to the instant Writ Petition.

11. That the Petitioner states that even after due intervention by the Office of Respondent No.1, the Petitioner made Applications one after another on 18.12.2015 and again on 05.02.2016 praying implementation of the Recommendation of the Shetty Commission with regard to the Promotion of Process Servers and Group-D Employees in the L.D.C. Cadre. The Applications as aforesaid have been forwarded through proper channel before the concerned Respondent vide Memo No. 316 dated 18.12.2015 and memo No. 30 dated 05.02.2016.

Copies of the Memo dated 18.12.2015 and 05.02.2016 are annexed hereto and collectively marked as Annexure - P/6 to the instant Writ Petition.

12. That the Petitioner states that in the mean time in purport compliance of the Memo dated 20.07.2009 being Annexure - P/1 to the instant Writ Petition and in consideration of an alleged Report by the Review Committee, the Office of the Respondent No.4 issued Order No. 29 dated 02.02.2012 whereby and whereunder save and except the three (3) Seal Bailiffs, other process Servers



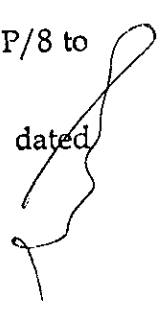
within the Judgeship of Bankura have been adjudged to be beyond the purview of the Notification dated 20.07.2009 for implementation of the Recommendations made by the Shetty Commission.

A copy of the Order dated 02.02.2012 as aforesaid is annexed hereto and marked as Annexure - P/7 to the instant Writ Petition.

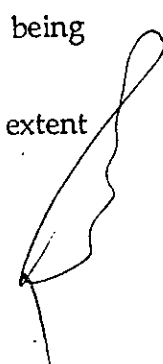
13. That the Petitioner states that for filling up 25% of the ten (10) vacancies in the category of Lower Division Clerk within the Judgeship of Bankura, the Office of the Respondent No.4 vide Order No. 230 dated 11.08.2015, Promoted Respondent No.5 in the Post of L.D.C. Clerk w.e.f. 19.08.2015 from the post of Seal Bailiff in purported compliance of the Recommendations made by Shetty Commission as mandated vide Government Notification dated 20.07.2009 being Annexure - P/1 to the instant Writ Petition.

A copy of the Order dated 11.08.2015 as aforesaid is annexed hereto and marked as Annexure - P/8 to the instant Writ Petition.

14. That the Petitioner submits that the Learned District Judge, Bankura being Respondent No.4 to the instant Writ Petition has misconstrued the Government Notification dated 20.07.2009 being Annexure - P/1 to the instant Writ Petition and passed the Orders impugned being Annexure - P/7 and Annexure - P/8 to the instant Writ Petition. The Government issued the Notification dated

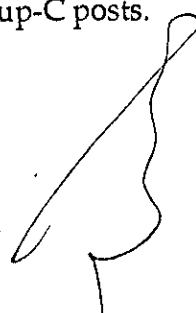


20.07.2009 to extend the benefit of Shetty Commission's Recommendations only to the Process Servers / Summon Bailiffs having qualification of class VIII standard i.e. to promote those Process Servers in the post of Lower Division Clerk to the extent of 25% in L.D.C. Cadre in the ratio of 1:2 along with other Group-D Employees. The Process Establishment in Mofussil Courts have been restructured constituting two cadres i.e. Process Servers / Summon Bailiffs and bailiffs / Seal bailiffs. The existing Cadre of Process server as on 20.07.2009 has been re-designated as Seal bailiffs having qualification of School Final or equivalent examination and those have been recommended to enjoy higher pay scale of Rs. 3350-6325/- in comparison to the Process Servers who are assigned Lower pay Scale of Rs. 3150-5680/-. It is further notified that the Promotional Policy of Bailiffs / Seal bailiffs may be determined by the Hon'ble High Court, Calcutta. However it is made clear in the Notification dated 20.07.2009 that bailiffs / Seal bailiffs who are enjoying higher scale of pay are not entitled to be put in the same league with the Process Servers and cannot be considered for Promotion in the Post of a Lower Division Clerk along with other Group-D Employees to the extent of 25% of the L.D.C. Cadre and @ 1:2 (Process Server-I, Group-D Employee-2). Hence the impugned Order dated 11.08.2015 being Annexure - P/8 to the instant Writ Petition is liable to be set aside to the extent



of Promotion of Respondent No.5 who was holding post of Seal Bailiff at the time of such Promotion and the impugned Order dated 02.02.2012 is liable to be set aside to extent of the finding that other Process Servers of this Judgeship do not come under the purview of the said Notification for implementation of the recommendation of the Shetty Commission.

15. That the Petitioner further submits that till the day of affirmation of the instant Writ Petition at least thirty (30) vacancy exist in the Judgeship of Bankura in the Cadre of Lower Division Clerk. But the Authorities are seemingly reluctant to fill up such post as per the Recommendations of Shetty Commission and Notification dated 20.07.2009 which appears to be an open refusal to obey the Government Police by the Respondent No.4 being a Government machinery itself and the same is an unique instance of Administrative anarchism to which this Hon'ble Court may kindly be pleased to take appropriate Judicial Notice. **The concerned Authorities must fill up all the posts vacant in Group-C cadre or at least for the time being fill up 25% of such post at the ratio of 1:2 i.e. from Process Server-1 (one) and from Group-D 2(two) with retrospective effect on and from 01.04.2003 which entitles the Petitioner to come under the Zone of consideration for such Promotion in Group-C posts.**



16. That the Records of the Case are lying outside the Original Side Jurisdiction of this Hon'ble Court.

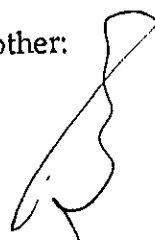
17. That there is no adequate, alternative legal remedy and the remedy sought for if granted will be full, efficacious and complete.

18. That on the self same cause of action and the matters in dispute no other Proceeding is pending before any Court of Law.

19. That in the facts and circumstances of the Case no useful purpose will be served in demanding Justice so as to observe an empty formality.

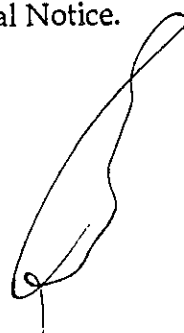
20. That the Petitioner shall suffer irreparable loss and hardship unless the Respondents, their men, agents and subordinates are restrained by an Order of Injunction from giving any effect and/or further effect and/or from acting in any manner whatsoever on the basis of the impugned Orders dated 11.08.2015 and 02.02.2012 being Annexures - P/8 and P/7 respectively to the instant Writ Petition pending disposal of the same.


21. That being aggrieved by and/or dissatisfied with the acts and activities of the Respondent Authorities in Refusing to implement the Recommendations of 1st National Judicial Pay Commission i.e. Shetty Commission thereby depriving the Petitioner promotion to the Post of Lower Division Clerk, Your Petitioner begs to move Your Lordships on the following amongst other:



G R O U N D S

- I. For that the acts and activities of the Respondent Authorities in depriving the Petitioner Promotion to the Post of Lower Division Clerk by refusing to implement the Recommendations of Shetty Commission with retrospective effect on and from 01.04.2003 in the facts and circumstances of the case are all illegal, malafide, opposed to all norms of Procedural and other Natural Justices as also without any Jurisdiction.
- II. For that the Authorities discharging Statutory functions must to act fairly but in the instant case they have acted in a most unfair manner in refusing to implement the Recommendation of Shetty Commission which is law in terms of Article 141 of the Constitution of India.
- III. For that in a clear instance of administrative anarchism a Government machinery has openly refused to implement and/or disobeyed the Government Order relating to implementation of the Recommendations of Shetty Commission to which this Hon'ble Court may be pleased to take appropriate Judicial Notice.

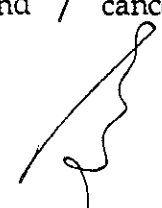


- IV. For that the Judgeship in Bankura is under a liability / obligation to implement the Government Notification being 5140J dated 20.07.2009 for implementation of the Recommendations of Shetty Commission.
- V. For that Seal Bailiffs are not entitled to Promotion in the Post of Group-D as per the Recommendation of the Shetty Commission since they are not at par with the Process Servers in terms of Government Notification being 5140J dated 20.07.2009 and on that ground alone the impugned Order No. 230 dated 11.08.2015 and Order No. 29 dated 02.02.2012 is liable to be set aside by this Hon'ble Court.
- VI. For that the concerned Authorities are under the obligation / liability to fill up the Promotional Posts in the L.D.C. Cadre i.e. 25% of all the vacant L.D.C. Posts @ 1:2 i.e. 1(one) from Process Server and (2) from existing Group-D Employees w.e.f. 01.04.2013 in terms of Government Notification 5140J dated 20.07.2009 and as such allow the Petitioner to come under the Zone of consideration for such Promotion as per the Gradation List as on 01.01.2015.
- VII. For that the Respondents have acted in capricious and colourable exercise of Authority vested upon them.
- 

- VIII. For that the Respondents have treated the Petitioner with hostile discrimination.
- IX. For that the acts and activities of the Respondent Authorities have resulted in manifest injustice for which the Petitioner have been made to suffer serious civil and other evil consequences.
- X. For that the acts and activities of the Respondents complained of are all violative of the Rights guaranteed under Article 14, 16, 19(1)(g), 21 and 300A of the Constitution of India.
22. That the instant Petition is made bonafide in the Interest of Justice, Equity and Fair Play.

In the circumstances stated above Your
Petitioner prays that Your Lordships
may graciously be pleased to Pass an
Order that -

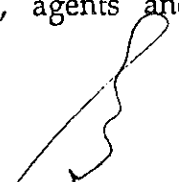
- a) Writ/Order/Direction in the
nature of Mandamus do issue upon the
Respondents, their men, agents and
subordinates to rescind / cancel /



withdraw the Order No. 230 dated 11.08.2015 issued under the signature of Respondent No.4 being Annexure - P/8 to the instant Writ Petition and further to command them to act and proceed strictly in accordance with law;


b) Writ/Order/Direction in the nature of Mandamus do issue upon the Respondents, their men, agents and subordinates to rescind / cancel / withdraw the Order No. 29 dated 02.02.2012 issued under the signature of Respondent No.4 being Annexure - P/7 to the instant Writ Petition and further to command them to act and proceed strictly in accordance with law;

c) Writ/Order/Direction in the nature of Mandamus do issue upon the Respondents, their men, agents and



subordinates to forthwith fill up 25% of the vacant Posts in the L.D.C. Cadre within the Judgeship of Bankura as per the Gradation List of Process Servers and Group-D Employees as on 01.01.2015 by giving effect and/or further effect to the Government notification issued by Memo No. 5140-J dated 20.07.2009 being Annexure - P/1 to the instant Writ Petition and further to command them to act and proceed strictly in accordance with law;

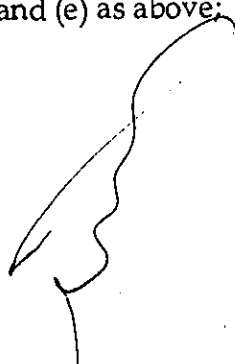
d) Writ/Order/Direction in the nature of Prohibition do issue upon the Respondents, their men, agents and subordinates Prohibiting them from withholding implementation of the Recommendation of Shetty Commission in the Judgeship at Bankura and further




from acting in any manner whatsoever
contrary to the Government Notification
No. 5140J dated 20.07.2009;

e) Writ/Order/Direction in the
nature of Certiorari do issue upon the
Respondents, their men, agents and
subordinates to produce all the Records
relating to passing the impugned order
No. 230 dated 11.08.2015 being
Annexure - P/8 to the instant Writ
Petition and upon Production of those
Records render conscionable Justice by
setting aside the impugned Order dated
11.08.2015 being Annexure - P/8 to the
instant Writ Petition;

f) Rule NISI in terms of Prayers (a),
(b), (c), (d) and (e) as above;

A handwritten signature in black ink, consisting of a series of loops and a long, sweeping tail that extends downwards and to the right.

- g) A Direction do issue upon the Respondent, their men, agents and subordinates to file a Report before this Hon'ble Court regarding implementation of the Recommendations of Shetty Commission within the Judgeship at Bankura in terms with Government Notification No. 5140J dated 20.07.2009 pending disposal of the instant Writ Petition;
- h) Interim Order in terms of Prayer (g) above;
- i) Injunction restraining the Respondents, their men, agents and subordinates from giving any effect and/or further effect and/or from acting in any manner whatsoever on the basis of the impugned memo No. 29
- 

dated 02.02.2012 and Memo No. 230
dated 11.08.2015 being Annexures - P/7
and P/8 to the instant Writ Petition
pending disposal of the same;

j) Interim order in terms of Prayer

(i) above;

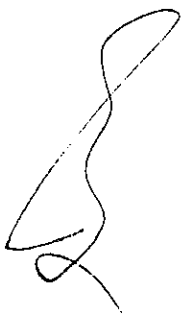
k) Rule absolute should the
Respondents fail to give sufficient
answer or return;

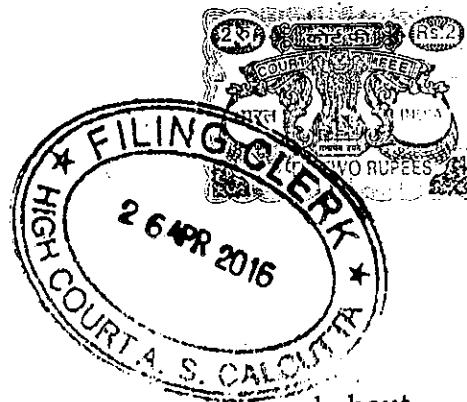
l) Cost and costs incidental thereto;

m) And/or to Pass such other or
further Order/Orders as to Your
Lordships may deem fit and proper.

And Your Petitioner, as in duty bound shall ever Pray.

Swadesh Ranjan Patthak
26.04.16





AFFIDAVIT

I, Sri Swadesh Ranjan Pathak, Son of Late Khitish Chandra Pathak, aged about 42 years, by faith Hindu, by occupation Service, resident of Village & P.O. - Fulkushma, Khattagram, P.S. - Indpur, District - Bankura, PIN - 722173, now residing at Block D2/3, Govt. Housing, Near HP Gas Office, P.O. & P.S. - Bishnupur, District - Bankura, PIN - 722122, do hereby solemnly affirm and say as follows:

1. That I am the Petitioner in the instant Writ Petition and as such I am well acquainted with the facts and circumstances of the instant case and I am also competent to swear and affirm the instant Affidavit.
2. That the statements made in paragraph 1 to 3, 5, are true to my knowledge, those made in paragraphs 4, 6, 7 & 13 are informations derived from Records and those made in paragraphs 14, 15 are my respectful submissions before this Hon'ble Court.

Prepared in my office

Mohany Bhandari
Advocate

The deponent is known to me.

Chandranath Ghosh
Clerk to Mr. *Arshant Anand*
Advocate

Solemnly affirmed before me on
This 26th day of April, 2016.

[Signature]
COMMISSIONER

Commissioner of Affidavit
High Court, Appellate Side
Calcutta

I certify that all Annexures are legible.

Mohany Bhandari
Advocate

824

25-25

Typed copy
annexed.

ANNEXURE- 'P1'

to in paragraph.....
foregoing Petition affirmed
by.....
on this..... Day of.....

Commissioner of Affidavit
High Court/Appellate Side
Calcutta

Government of West Bengal
Judicial Department
Writers' Buildings, Kolkata - 700 001.

Dated : 20th July, 2009.

No. 5140-J.
S-25/04(Pt. VI)

From : Shri A.K.Roy,
Secretary-in-Charge to the
Government of West Bengal.

To : The Pr. Accountant General (A & E),
West Bengal. Treasury Buildings,
Kolkata - 1.

Translated/Legible Copy attached
Commissioner

Sub: Implementation of the recommendation of the Shetty Commission
for the staff attached to the process serving establishment
in the sub-ordinate courts in the state reg. recruitment rules
promotion policies and qualification etc.

Sir,

In compliance with direction of the Hon'ble Supreme Court of India
Dated 11.02.09 passed in I.A. Nos. 71A, 135-136, 137, 138 and 142 in W.P.
(C) No. 1022/1989 and as per the decision taken in the matter in the
meeting held in the Chamber of the Principal Secretary, Finance Deptt.
of West Bengal on 30.03.2009, I am directed by order of the Governor
to say that the Governor has been pleased to decide to implement the
following recommendations w.e.f. 01.04.2003 :-

- 1) The Process Establishment in the Mofussil Courts be restructured
Constituting the two cadres viz., i) Process Server/Summon Bailiffs and
ii) Bailiffs/Seal Bailiffs. These two cadres and in the Presidency Small Causes
Court, Calcutta.

In Mofussil Courts, the pay scale of Rs. 3350-6325/- has been reco-
mmended as per judgement in Civil Rule No. 5139 (W) 1981 to the existing
cadre of Process Servers who are required to obtain the qualification
of pass in School Final or equivalent examination. The said cadre be
re-designated as Seal Bailiff and the cadre of Process Servers be assi-
gned lesser pay scale of Rs. 3150-5680.

- 3) Qualification and Mode of Recruitment :-

- i) PROCESS SERVERS : (Seal no 5)
(Bailiff or Summon Bailiff)

- (a) Qualification :

Since the prescribed qualification for the posts of
Bailiff in the City Civil & Session Court and the Summon Bailiff in
the Court of Small Causes in the same i.e. qualification of VIII
standard as recommended by the Commission, no modification is suggested.

- (b) Mode of Recruitment :

50% by direct recruitment and 50% by promotion of peons/
orderlies having a minimum qualification of VIII standard.

(c) Reservation in Group-D posts (clerical cadre Entry Level)
Process Servers with requisite qualification shall be
considered for promotion with other categories of Gr. D
employees to the extent of 25% in L.D.C. cadre in the ratio
of 1 : 2 (Process Servers and other Group-D employees-2).

(ii) B.A. I L I F F. 3 : (Seal Bailiff)

a) Qualification is pass in School
Final Examination or Matriculation which is
recorded by the Commission.

b) Mode of Recruitment

Mixed mode - i.e., by direct recruitment and
by promotion of Bailiffs in CCO/Summon Bailiffs in
Court of SDO/Process Servers in Mofussil Courts and
Percentage between direct recruitment and the promo-
tion may be determined by the High Court.

4) The post of Bailiff/Seal Bailiff will be entirely filled up by
promotion of Process Server/Summons Bailiff having passed School Final
Examination.

5) This order is issued with concurrence of Finance (A) Deptt. vide
their U.O. No.1561-Gr. 'B' (Service) dated 01-06-09.

6) All concerned including all Treasury Officers, Pay and Accounts
Officer-I & II, Calcutta, are also being informed accordingly.

Yours faithfully,

Secretary-in-Charge.


No.5140/1 (55)-J.

Dated : 20th July, 2009.

Copy forwarded for information and necessary action to the :-

1. Pay and Accounts Officer-I, Kolkata Pay & Accounts Office,
61/2/2, Phears Lane, Kolkata-700012.
2. Pay & Accounts Officer-II, Kolkata Pay & Accounts Office,
R-1, Hyde Lane, Jawhar Buildings, Kolkata-700073.
3. Treasury Officer,
4. District Judge,
5. Registrar General, High Court, Appellate Side, Calcutta,
High Court Buildings, Kolkata-700001.

6. Finance (A) Dept. Gr. 11 (Service).
7. Chief Judge, City Civil Court, Calcutta,
City Civil Court Buildings, 263, J.S. Roy Road, Kolkata-1.
8. Chief Judge, Presidency Small Causes Court, Calcutta,
City Civil Court Buildings, 263, K.S. Roy Road, Kolkata-1.
9. Chief Judge, City Sessions Court, Calcutta,
Bankshall Street, Kolkata-700001.
10. Chief Metropolitan Magistrate, Calcutta,
Bankshall Street, Kolkata-700001.
11. Senior Municipal Magistrate, Calcutta,
150, K.M. Senapati Street, Sadcc Buildings, Kolkata-27.
12. Judge, 24-Parganas, 1st Special Court, Alipore,
Survey Buildings, Kolkata-27.
13. Judge, Calcutta, 2nd Special Court, 3, Bankshall St., Kolkata-1.
14. Judge, Calcutta, 3rd Spl. Court, 3, Bankshall St., Kolkata-1.
15. Judge, Calcutta, 4th Spl. Court, 3, Bankshall St., Kolkata-1.
16. Judge, Calcutta, 5th Spl. Court, 3, Bankshall St., Kolkata-1.
17. Principal Judge, Family Court, Calcutta,
3, Bankshall St., Kolkata-700001.


Secretary-in-Charge.

GOVERNMENT OF WEST BENGAL
JUDICIAL DEPARTMENT
WRITERS' BUILDINGS, KOLKATA

No. 5140-J

S-25/04(Pt. VI)

Dated : 20th July, 2009

From : Shri A. K. Roy,
Secretary-In-Charge to the
Government of West Bengal.

To : The Pr. Accountant General (A & E),
West Bengal, Treasury Buildings,
Kolkata - 700001.

Sub : Implementation of the recommendation of the Shetty Commission for the Staff
attached to the process serving establishment in the sub-ordinate courts in the
State reg. Recruitment Rules, promotion policies and qualification etc.

Sir,

In compliance with direction of the Hon'ble Supreme Court of India dated 11.02.09 passed in I.A. Nos. 71A, 135-136, 137, 138 and 142 in W.P. (C) No. 1022/1989 and as per the decision taken in the matter in the meeting held in the Chamber of the Principal Secretary, Finance Deptt. of West Bengal on 30.03.2009, I am directed by order of the Governor to say that the Governor has been pleased to decide to implement the following recommendation w.e.f. 01.04.2003 :-

1) The Process Establishment in the Mofussil Courts be restructured constituting the two cadres viz., i) Process Server / Summon Bailiffs and ii) Bailiffs / Seal Bailiffs. These two cadres have already been provide both in the City Civil & Sessions Courts and in the Presidency Small Causes Court, Calcutta.

2) In Mofussil Courts, the pay scale of Rs.3350-6325/- has been recommended as per judgment in Civil Rule No. 5139(W) 1981 to the existing Cadre of Process Servers who are required to obtain the qualification of pass in School Final or equivalent examination. The said cadre be re-designated as Seal Bailiff and the Cadre of Process Servers be assigned lesser pay scale of Rs. 3150-5680.

Contd....P/2.

= 2 =

3) Qualification and Mode of Recruitment :-

i) PROCESS SERVERS :
(Bailiff or Summon Bailiff)

(a) Qualification :

Since the prescribed qualification for the posts of Bailiff in the City Civil & Session Court and the Summon Bailiff in the Court of Small Causes in the same i.e. qualification of VIII standard as recommended by the Commission, no modification is suggested.

(b) Mode of Recruitment :

50% by direct recruitment and 50% by promotion of peons/orderlies having minimum qualification of VIII standard.

(c) Reservation in Group-C posts (clerical cadre Entry Level) :

Process Servers with requisite qualification shall be consider for promotion along with other categories of Gr. 'D' employees to the extent of 25% in L.D.C. Cadre in the ratio of 1:2 (Process Server-1 and other Group-D Employees-2).

ii) B A I L I F F S : (Seal Bailiff)

a) Qualification :

The prescribed qualification is pass in School Final Examination or Matriculation which is same as recorded by the Commission.

b) Mode of Recruitment :

Mixed Cadre - i.e., by direct recruitment and by promotion of Bailiffs in CCC/Summon Bailiffs in Court of SCC / Process Servers in Mofussil Courts only. Percentage between direct recruitment and the promotion may be determined by the High Court.

4) The post of Bailiff / Seal Bailiff will be entirely filled up by promotion of Process Server / Summons Bailiff having passed School Final Examination.

Contd....P/3.

= 3 =

- 5) This order is issued with concurrence of Finance (A) Deptt. vide their U.O. No. 1561-Gr. 'P' (Service dated 01.06.09).
- 6) All concerned including all Treasury Officers, Pay and Accounts Officer-I & II, Calcutta, are also being informed accordingly.

Yours faithfully,

Sd/- A. K. Roy
Secretary-in-Charge.

Dated : 20th July, 2009

No. 5140/1(55)-J

Copy forwarded for information and necessary action to the :-

1. Pay and Accounts Officer-I, Kolkata Pay & Accounts Office, 81/2/2, Phears Lane, Kolkata-700012.
2. Pay & Accounts Officer-II, Kolkata Pay & Accounts Office, P-1, Hyde Lane, Jawhar Buildings, Kolkata-700073.
3. Treasury Officer,
4. District Judge, Bankura,
5. Registrar General, High Court, Appellate Side, Calcutta, High Court Buildings, Kolkata-700001.
6. Finance (A) Deptt. Gr. 'P' (Service).
7. Chief Judge City Civil Court, Calcutta, City Civil Court Buildings, 2 & 3, J. S. Roy Road, Kolkata-1,
8. Chief Judge, Presidency Small Causes Court, Calcutta, City Civil Court Buildings, 2 & 3, K. S. Roy Road, Kolkata-1,

Contd....P/4.

= 4 =

9. Chief Judge, City Sessions Court, Calcutta,
Bankshall Street, Kolkata - 700001.
10. Chief Metropolitan Magistrate, Calcutta,
Bankshall Street, Kolkata-700001.
11. Senior Municipal Magistrate, Calcutta.
15N, Nellie Sengupta Sarani, Hidco Buildings, Kolkata-87.
12. Judge, 24-Parganas, 1st Special Court, Alipore,
Survey Buildings, Kolkata-27.
13. Judge, Calcutta, 2nd Special Court, 3, Banshall St., Kolkata-1.
14. Judge, Calcutta, 3rd Special Court, 3, Banshall St., Kolkata-1.
15. Judge, Calcutta, 4th Special Court, 3, Banshall St., Kolkata-1.
16. Judge, Calcutta, 5th Special Court, 3, Banshall St., Kolkata-1.
17. Principal Judge, Family Court, Calcutta,
3, Bankshall St., Kolkata-700001.

Sd/- A. K. Roy
Secretary-in-Charge.

- 32 -

ANNEXURE - P2

Annexure.....
to in paragraph.....
foregoing Petition affirmed
by.....
on this..... Day of.....

Commissioner of Affidavit
High Court, Appellate Side
Calcutta

OFFICE OF THE CIVIL JUDGE (JR. DIVN.), BISHNUPUR

No. 242

From : Sourav Subba
Civil Judge (Jr. Divn.), Bishnupur

To
The Ld. District Judge, Bankura

Dated, Bishnupur, the 06th August, 2015

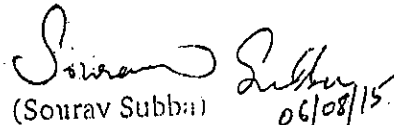
Respected Sir,

I have the honour to forward herewith the application submitted by Swadesh Rajan Pathak, Office Peon, in this establishment, which speaks for itself.

This is for favour of your honour's kind information and consideration.

With regards,

Yours faithfully,


(Sourav Subba)

Civil Judge (Jr. Divn.), Bishnupur

Civil Judge (Jr. Divn.)
Bishnupur

To,

The Learned District Judge,

Bankura.

Through : Proper Channel.

Sub : Prayer for implementation of the recommendation of "Shetty Commission" regarding promotion of the qualified Process-Servers along-with Group-D employees to extent of 25% of L.D.C Cadre in the ratio of 1:2 (Process-server 1 and Group-D-2) w.e.f 01.04.2003 onwards admissible in terms of G.O.No.-5140-J Dt.20.07.2009.

Sir,

Respectfully, I, one of the qualified Group-"D" staffs of your honour's judgeship, beg to submit that we all have had the reflection of Hon'ble Supreme Court in Order No.5140-J dtd.20.07.2009 concerning promotion of qualified process-servers as well as Group-"D" employees to the post of L.D.C. Cadre in the ratio of 1:2 (Process-server-I and Group-D-2) and I have come to know from some of my friends that District Courts have already started implementation of the same.

In this context my humble prayer to your honour to consider my candidature as one of those to have promoted to the post of L.D.C from Group-"D" cadre and oblige me thereby.

I beg to be pardoned in case of probable irregularity in my prayer.

With due regards.

Dated Bishnupur
The 6th August 2015

Yours faithfully,
Swadesh Ranjan Patra (G.D.)
Office Peon
C. J. J. D. Bishnupur

Signature.....
 to in paragraph.....
 foregoing Petition affirmed
 by.....
 on this..... Day of.....

Commissioner of Affidavit
 High Court, Appellate Side
 Calcutta

OFFICE OF S.P.I.O. cum CHIEF JUDICIAL MAGISTRATE BANKURA

DIST: - BANKURA

No....7/10

From: - Hidayatullah Bhutia
 S.P.I.O. Cum Chief Judicial Magistrate, Bankura

To:- Swadesh Ranjan Pathak
 Ejlash Peon
 Civil Judge(Jr. Divn.), Bishnupur

Dated, Bankura, the 17th Sept 2015

The undersigned is to furnish the following information as asked for by the applicant u/s 6(1) of RTI Act 2005.

Query	Reply
As to whether since 01.04.2003 method of promotion to the all Categories of Gr- D Employees and Process Server who with requisite qualification of MP or SF examination passed have already been made to the extent of 25% in the LDC Cadre in the ratio of 1:2 (PS-1 and Gr-D) or not?	No
Since 01.04.2003 to date how many employees have been promoted to the post of UDC from LDC by virtue of implementation of recommendation of Shetty Commission retirement, death or otherwise as the case may be?	Question is not clear, Usual process of promotion from LDC to UDC was applied.
Whether as per direction of the Govt. of West Bengal, Judicial Department given in their letter under Memo No. 5140-J dtd. 20.07.2009 in the light of decision of Hon'ble Supreme Court, India in WP(c) 1002 of 1989 has been complied w.e.f. 01.04.2003 to date or not .	No
39 numbers of Gradation list (Ministerial Staff-13, Group D-13 and Process Server-13) as stood on 01.01.2003 to 01.01.2015 in the Judgeship of Bankura be supplied with as required for compliance with order of the Govt. of West Bengal, Judicial Department	The Copies of the Gradation list could not be supplied as the question is not clear.

Receipt of the information please be acknowledged.

S.P.I.O. Cum Chief Judicial Magistrate,
 Bankura

Annexure.....
to in paragraph.....
foregoing Petition affirmed
by.....
on this..... Day of.....

Commissioner of Affidavit
High Court, Appellate Side
Calcutta

r.v.

③

③

OFFICE OF THE CIVIL JUDGE (JR. DIVN.)

No. 283

From : Sourav Subba
Civil Judge (Jr. Divn.)
Bishnupur, Bankura.

To : The Ld. District Judge,
Bankura.

Dated Bishnupur, the 24th Sept., 2015

Sir,

I have the honour to enclose herewith an application submitted by Sri Swadesh Ranjan Pathak, Ejlash Peon of this establishment along with its enclosures which speaks for itself. for favour of onward transmission of the same to the Secretary to the Govt. of W.B. Judicial Department, Writers' Buildings, Kolkata-700 001.

Yours faithfully,



(Sourav Subba)
Civil Judge (Jr. Divn.)
Bishnupur.

Civil Judge (Jr. Divn.)
BISHNUPUR, BANKURA

Enclo :- As stated above.

To
The Secretary to the Government of West Bengal,
Judicial Department,
Writers' Buildings,
Kolkata-700001.

Through Proper Channel.

Sub :- Appeal for implementation of recommendation of the Shetty Commission in respect of promotion to the qualified Process Servers along with the Group "D" Employees to the extent of 25% in the L.D.C. Cadre in the ratio of 1:2 (P.S. 1 and Group 'D'-2) w.e.f. 1.4.2003 and onwards as admissible in terms of G.O. No. 5140-J dt. 20.7.2009.

Ref :- My representation dt. 6.8.15 addressed to the Controlling Officer.

Respected Sir,

With due adequate profound veneration and reference to the captioned subject in the matter, I have the honour to submit before your honour that my representation dt. 6.8.15 the claim of Promotion to the qualified Process Servers along with Gr. 'D' Employees to the extent of 25% in the L.D.C. Cadre in the ratio of 1:2 (P.S.-1 and Gr. 'D'-2) w.e.f. 1.4.2003 by virtue of recommendation of the Shetty Commission is still kept pending in the office of the Ld. District Judge Bankura, but no action in this regard has been taken inspite of 1½ month more (i.e. 45 days more) elapsed the date of submission of the aforesaid representation.

So, I intend to seek redress of my grievance for the matter of Promotion to the said eligible candidates belong to the Process Servers / Seal Bailiffs and Gr. 'D' Employees who have possessed the qualification of pass in School Final or equivalent examination which has unduly delayed of the case.

In terms of Rule 21 of West Bengal Govt. Servants Conduct Rules 1959 I beg to draw your honours kind attention that some of the District Courts in West Bengal have duly been complied with the direction of the Secretary to the Govt. of West Bengal Judl. Department, Writers' Building, Kolkata-1 by virtue of implementation of recommendation of the Shetty Commission as contemplated in G.O. No. 5140-J dt. 20.7.2009 in the basis of order of the Hon'ble Apex Court dated 11.2.09 passed in I.A. Nos. 71A, 135-136, 137, 138 and 142 in W.P. © No. 1022/1989 but our Judgeship is unable to comply with the said direction and as a result we are very much victimized deprived from getting such promotion w.e.f. 1.4.2003 till date.

Contd...P/2.

= 2 =

So, the method of promotion may kindly be made w.e.f. 1.4.2003 strictly as per direction of the Hon'ble Supreme Court of India which reflects in memo no. 5140-J dt. 20.7.2009 of the Judicial Deptt. Govt. of West Bengal.

As I am in need of natural and equitable justice in this matter, I earnestly appeal before your honour to kindly pass necessary order / request the Ld. District Judge Bankura for offering promotion to the qualified process servers along with Gr. 'D' Employees to the extent of 25% in L.D.C. Cadre in the ratio of 1:2 (P.S.-1, Gr. 'D'-2) but not Writ Petitioner Process Servers with effect from 1.4.2003 by extending the scope of promotion in view of the order of the Govt. of West Bengal Judicial Deptt. as referred to above.

An advanced copy of the application in appeal form is being sent direct to the addressee in terms of Rule 6 of West Bengal Service (Duties Rights and obligation of the Govt. Employees Rule 1980 for favour of early disposal.

Necessary papers / documents are furnished earlier to the authority of the Judgeship of Bankura are appended herewith for your honours kind perusal, satisfaction and ready reference.

With regards,

Yours faithfully,

Encl :- Sent as above
M. No. 9733958251
Dated Bishnupur,
The 24th Sept. 2015.

Swadesh Ranjan Pathak
(Swadesh Ranjan Pathak)
Ejlash Peon, Civil Judge,
Jr. Division (Bishnupur, Bankura)

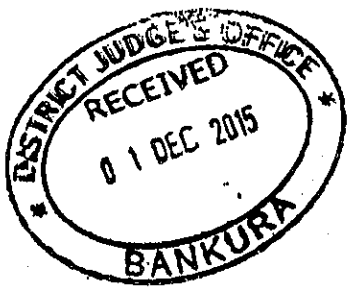
- 38 -

ANNEXURE - P5

Annexure - P5
in paragraph
regarding Petition filed
by S. R. Mondal
on this 26/09/2015

Secretary of Aditya
High Court, Appellate Side
Kolkata

P5



4

Government of West Bengal
Judicial Department
Writers' Buildings
Kolkata

No.616-JD/X/16M-20/15

November 26, 2015

To
✓ The District Judge
Bankura
PO & Dist. - Bankura.

Sub : Implementation of the recommendation of the Shetty Commission for the staff
attached to the process serving establishment regarding promotion policies.

Sir,

I am to refer to your letter No.1644/XIII-2 dated 29.09.2015 and to request
you kindly to follow the method for promotion as laid down at para 3[c] of this
Department order No.5140-J dated 20.07.2009 with effect from the date as
mentioned therein subject to observance of existing norms/procedures in case of
allowing promotion.

Yours faithfully,

[P.K.Mondal]
Secretary

look into
matter

DISTRICT JUDGE
BANKURA

ANNEXURE - P6

Annexure...
to in paragraph...
foregoing Petition affirmed
by...
on this... Day of...

Commissioner of Affidavit
High Court, Appellate Side
Calcutta

P6

OFFICE OF THE CIVIL JUDGE (JR. DIVN.), BISHNUPUR

NO - 316

From : Sourav Subba

Civil Judge(Jr. Divn.), Bishnupur

To

The Ld. District Judge, Bankura

Dated, Bishnupur the December 2015

Respected Sri,

I have the honour to forward herewith the application along with enclosures submitted by Swadesh Ranjan Pathak, Ejlash peon, in this establishment, which speaks for itself.

This is for favor of your honour's kind information and consideration.

With regards,

Your faithfully

(Sourav subba)

Civil Judge (Jr. Divn.), Bishnupur

Civil Judge (Jr. Divn.)
Bishnupur, Bankura 18/12/15

To
The District Judge Bankura.

Through : Civil Judge (Jr. Divi.) Bishnupur. (Bankura)

Sir,

With due adequate profound veneration I have the honour to state for your honour's kind information that the representation in appeal form dated 24.09.2015 addressed to the secretary to Government of West Bengal, Judicial department Writer's Building, Kolkata was sent through proper channel and thereafter your honour has been pleased to forward the same to the addressee under your honours' office letter no. 1644/XIII-2 dt. 29.09.2015 for the purpose of clarification / instruction as to whether method for promotion to the qualified process -servers along with group 'D' employee to the extent of 25% in the L.D.C cadre in the ratio of 1 : 2 (i.e process -server - 1 and group 'D'- 2) with effect from 01.04.2003 would be implemented or not as per order of the Govt. of West Bengal Judicial Department under their Memo No. 5140-J dt. 20.07.2009 as contemplated in para 3 (C) of the said Memo.

After careful consideration of the matter, the Judicial secretary to the Government of West Bengal, has been pleased to decide to follow the method / process for said promotion as laid down at para-3 (C) of the Memo. No. 5140-J dt. 20.07.2009 with effect from 01.04.2003. Subject to observance of existing norms / Procedure in case of allowing promotion under their order vide Memo No. 616 - JD/X/16M-2015 dt.-26.11.2015 (copy of which is enclosed)

After lapse of sufficient time, I have the honour to draw your honours' kind attention to the said Memo where in an endorsement contains that the D.A. to look in to the matter but no action has been made as yet.

Under the facts and circumstances, I request your honour to kindly implement the recommendation of the shetty commission as per request of the secretary to the Government of West Bengal, Judicial department Kolkata vide Memo No. 616 - JD/X/16M-2015 dt.-26.11.2015 so that we can get such opportunity during our service life otherwise we shall be deprived from natural and equitable justice.

Copies of the relevant papers are enclosed herewith for your honours' kind perusal, satisfaction and ready reference.

With best regards.

Dated, Bishnupur the ^{18th} day
of December, 2015

Yours faithfully,

Swadesh Ranjan Pathak

(SWADESH RANJAN PATHAK)

Ejlash Peon (Group - 'D' employee)

Civil Judge Jr. Divn. court

Bishnupur, (Bankura)

18/12/15

6

OFFICE OF THE CIVIL JUDGE (JR. DIVN.)

No. 30

From : Sourav Subba
Civil Judge (Jr. Divn.)
Bishnupur, Bankura.

To : The Ld. District Judge,
Bankura.

Dated Bishnupur, the 5th Feb., 2016


Sir,

I have the honour to enclose herewith an application submitted by Sri Swadesh Ranjan Pathak, Ejlash Peon of this establishment along with its enclosures which speaks for itself,

This is for favour of your honour's kind information and consideration.

With regards.

Yours faithfully,


(Sourav Subba)
Civil Judge (Jr. Divn.)
Bishnupur.

Civil Judge (Jr. Divn.)
BISHNUPUR

Encl :- As stated above.

Enclosure 9 (2nd) sheets
Today

42

To
The District Judge,
Bankura.

Through Proper Channel

Sub :- Prayer for implementation of the recommendation of the Shetty Commission as regards of promotion to the qualified Process Servers along with the Group-'D' employees to the extent of 25% in the L.D.C. Cadre in the ratio of 1:2 (PS-I and Gr. 'D'-2) w.e.f. 1.4.2003 and onwards admissible in terms of G.O. No. 5140-J-dt. 20.07.2009.

Sir,

I, the qualified Gr. 'D' employee of the Judgeship of Bankura, have the honour to state that for your honour's kind appraisal to the fact that of non-implementation of the recommendation of the Shetty Commission w.e.f. 1.4.03 as regards of promotion to the post of L.D.C. Cadre in the ratio of 1:2 (PS-I and Gr. 'D'-2) amongst the senior most and confirmed qualified Gr. 'D' employees and Process-Servers as caused from your end and as a result we have been deprived from getting such promotion.

In this regards I have applied to the earlier District Judge Bankura vide dated 6.8.15 but consequently get no response from his honour's end.

After one and half months I appealed to the Secretary to the Govt. of West Bengal Judicial Deptt., Writers' Building, Kolkata through proper channel vide District Judge Office Memo No. 1644/XIIIIO-2 dt. 29.9.2015 as a result Judicial Deptt. passed an order vide his memo no. 616-JD/X/16M-20/15 dt. 26.11.15 to the District Judge Bankura and request to follow the method of promotion as laid down at para 3(c) of the Judicial Deptt. order No. 5140-J dated 20.7.05 with effect from 1.4.03.

Thereafter I further request to D.J. Bankura after passing the order of the Judicial Secretary Order No. 616-JD/X/16M-20/15 dt. 26.11.15 I request him vide dated 18.12.2015 to implemented the same but no action has been taken till date.

Contd... P/2

- 43 -

So the method of promotion may kindly be made w.e.f. 1.4.2003 strictly as per direction of the honourable Supreme Court of India which reflects in Judicial Deptt. memo no. 5140-J dt. 20.07.2009.

Therefore I am sorry to say that inspite of Govt. Order we are deprived from getting promotion since effective date.

So our legitimate claim/request to your honour before declaration of vacancies for fresh recruitment kindly offer ourselves to the said promotion by extending the scope of promotion in view of the order of the Govt. of West Bengal Judicial Deptt. (vide Memo No. 616-JD/X/16M-20/15 dt. 26.11.15).

I hope that your honour will appreciate our legitimate claim and do the needful within your honour's earliest convenience.

Dated the 5th Feb 2016
Bishnupur

Yours faithfully,

Swadesh Ranjan Pathak

(Swadesh Ranjan Pathak)
(Ejlash Peon)
C.J.J.D. Bishnupur

- 44 -

Bankura.....
to in paragraph.....
foregoing Petition affirmed
by.....
on this..... Day of.....

ANNEXURE - 1 P7

Commissioner of Affidavit
High Court, Appellate Side
Calcutta

ORDER NO. 29 / DATED : 2-2-2012

As per report of the Review Committee submitted by the Additional District Judge, 1st court, Bankura and the Additional District Judge, 2nd court, Bankura wherein they recommended for issuance of appropriate promotional order to the post of Baliff in the Judgeship of Bankura from amongst the Cadres of Process Servers and the incumbents named 1) Sk. Naziruddin, 2) Shri Biswanath Das and 3) Shri Sudhamoy Chowdhury and other Process Servers, if any, having requisite qualification of at least School Final / M.P. Passed, if they are not otherwise barred and subject to attendance/integrity/performance efficiency/health by virtue of recommendation of the Shetty Commission in terms of Notification No. 5140-J and No. 5141-J both dated 20/07/2009 issued by the Judicial Department, Govt. of West Bengal with concurrence of the Finance Department (Audit) West Bengal under their U.O No. 1561 Gr.P. (service) dt. 1.6.2009 in implementation of service condition of the Process Servers of this Judgeship creating / constituting the 2 (two) Cadres namely 1) Process Server/ Summons Baliff and 2) Baliff / Seal Baliff with effect from 1.4.03 the order is made as follows :-

Perused and considered the report as well as the Notification of the Govt. of West Bengal, Judicial Department.

In view of the G.O. NO. 5140-J dt. 20/7/2009 read with Judgement in Civil Rule No. 5139 (W) of 1981 to the consisting Cadres of Process Servers who are required to obtain the Qualification of Passed in School Final or equivalent Examination and their Pay Scale of Rs. 3350 - 6325/- (Scale No. 6) under W.B.S. ROPA Rules, 1998 has been recommended. The said Cadre be redesignated as Seal Baliff and the Cadre of Process Server be assigned lesser Pay Scale of Rs. 3150 - 5650/- (Scale No. 5).

After careful consideration of all aspects and in view of reports 1) Sk. Naziruddin, 2) Shri Biswanath Das and 3) Shri Sudhamoy Chowdhury having requisite qualification of School Final, are now re-designated as Seal Baliff with the Scale of pay of Rs. 3350 - 6350/- (Scale No. 6) and other Process Servers of this Judgeship do not come under the purview of the said Notification for implementation of the recommendation of the Shetty Commission.

As per provision of G.O. NO. 5141-J dt. 20/7/2009 and recommendation of the Review Committee in implementing the recommendation of the Shetty Commission and Seal Baliffs and all the Process Servers attached to the Judgeship of Bankura are entitled to draw fixed Travelling Allowance (F.T.A.) of not less than Rs. 200/- (Rupees two hundred) only per month with effect from 1.4.2003.

Contd.....p/2.

∞

District Judge, Bankura.

- 11 2 11 -

In view of the above, the Process Servers who have already retired and the Legal heirs / Nominees of the deceased are also allowed to get their entitlement of F.T.A. for the period while they were posted in the said post.

MODE OF RECRUITMENT

50% of the Cadre of Process-Server will be filled up by direct recruitment and 50% by promotion from the Peons/Orderlies having a minimum qualification Standard / merit / integrity/ attendance / performance / efficiency/ health.

METHOD OF PROMOTION

The post of Seal Baliff / Baliff will be entirely filled up by promotion from the Process Servers having passed requisite qualification of School Final and merit.

Process -Servers alongwith other categories of Group-D employees having requisite qualification shall be considered for promotion to the extent of 25% in L.D.C.Cadre in the ratio of 1:2 (Process Server -1 and Group-D employee - 2).

This order is provisional and issued in the interest of Public service. The undersigned reserved the right of correction or error, if any, if it is found in future.

In case of overdrawal by any of the incumbent, the excess amount drawn by virtue of the order will be recovered forthwith.

Inform the respective heads of offices to do the needful for taking necessary notes in the Service Books of the Seal Baliff concerned and also for payment of F.T.A. to the existing Process Servers and Seal Baliffs and also to the Process Servers who have retired / deceased Govt. employee who have died in harness, from this Judgeship.

Let a copy of this order be displayed in the Notice Board.

Inform all concerned for taking necessary action.

Sd/- A. Chandra
DISTRICT JUDGE, BANKURA.

..... Memo.No. 202(14)771-2
Office of the District Judge of Bankura.
Dated, Bankura, the 2nd February, 2012.

- Copy forwarded for information and taking necessary action to :-
- 1) The Accountant General (A&E), West Bengal, Treasury Buildings, Kolkata - 700001.
 - 2) The Secretary to the Govt. of West Bengal, Judicial Department Writers' Buildings, Kolkata - 700001.
 - 3) The Judge in Charge of Accounts, Bankura sadar.
 - 4) The Judge in charge of Nazareth, Bankura sadar.
 - 5) The Civil Judge (Jr.Div.) Bishnupur.
 - 6) The Civil Judge (Jr.Div.) Khatra.
 - 7 -8) A.C.J.M. Bishnupur / Khatra.
 - 9 -11) The Treasury Officer, Bankura/Bishnupur / Khatra.
 - 12 -14) Notice Board, Bankura sadar, Bishnupur and Khatra.

District Judge, Bankura.

JIC
3/2/12

-46-

ANNEXURE - P8

in paragraph.....
foregoing Petition affirmed
by.....
on this... 26/04/2015 ... Day of ...

Commissioner of Affidavit
High Court Appellate S.C.
Calcutta

Order No. 270 Dated. 11/8/15

Sri Kartick Ch. Mondal, (2) Sri Debpal Kundu, (3) Smt. Bharati Barat, (4) Sri Shyampada Murmu, (5) Sri Pradip Kr. Banerjee, (6) Sri. Purnendu Biswas, (7) Sri Suman Banerjee, (8) Sri Dipak Kr. Roy, (9) Sri Arnab Palit and (10) Smt. Hela Shit were promoted to the post of Upper Division Clerks and consequently, ten vacancies in the category of Lower Division Clerk occurred and those vacancies are still remain unfilled.

As per provisions of the G.O.No. 5140-J dated 20-07-2009 of the Government of West Bengal, Judicial Department, implementing the recommendations of the Shetty Commission, Process-servers with requisite qualification shall be considered for promotion alongwith other categories of Group D employees to the extent of 25% in the L.D. Clerk Cadre in the ration 1:2 (Process-Server-1 and other Group D-2)

It is obvious that as per the above ratio, the first vacancy out of three mentioned in the above G.O. should be filled up from amongst the Process Servers holding requisite qualification and the rest two vacancies should be filled up from amongst the other categories of Group-D employees holding requisite qualification.

To the extent of 25% of the resultant ten vacancies in the L.D.C. Cadre mentioned above, two employees i.e. one Process Server against first four vacancies and one Group-D employee against next four vacancies are entitled for appointment on promotion to the post of L.D. Cadre. Two vacancies occurred due to promotion of Sri Arnab Palit and Smt. Hela Shit should be kept pending for adjustment in the future occasion of promotion.

The present two vacancies required to be filled up, fall at the 20th and 21st point of 50 point roster set out in schedule-II of the West Bengal Scheduled Castes and Scheduled Tribes (Reservation of vacancies in Services and posts) Act 1976.

According to the descending order of seniority of process-server having requisite qualification (1) Sri Sudhamoy Choudhury, (2) Sri Amarendu Banerjee, (3) Sri Kalyani Prasad Chattopadhyay, (4) Sri Pratha Karmakar and (5) Sri Shyamal Kr. Satpati come up for consideration for appointment on promotion to the L.D. Clerk Sri Sudhamoy Chowdhury holds top position in the zone of consideration. No adverse report appears in his Service Book and as such he is considered fit for appointment on promotion to the post of L.D. Clerk against 20th point of 50 point roster.

Next come the case of Group-D Employees. According to the descending order of seniority of Group D employees having requisite qualification (1) Sri Pradip Kr. Chatterjee, (2) Sri Kartick Ch. Nayek, (3) Sri Madhu Sudan Pal, (4) Sri Satya Ranjan Banerjee and (5) Sri Samar Bandyopadhyay come up for consideration for appointment on promotion against 21 point of 50 point roster.

The 21st point of the above mentioned roster is reserved for the Scheduled Caste category but neither any S.C. nor S.T. Candidate is available within the normal zone of consideration and therefore, the promotion is offered to a candidate of general category.

Sri Pradip Kumar Chatterjee holds upper-most position in the normal zone of consideration. But it appears from the service book of Sri Chatterjee that he was placed under suspension vide order no. 246 dt. 15.12.2007 of the District Judge, Bankura for his detention in

(2)

jail custody in a criminal case and that his un-authorised absence resulted break in service as per order no-162 dt 30.07.2007 of the District Judge, Bankura.

Suspension and break in service are, no doubt, serious stigmas in service life of a government employee for which Sri Charterjee is considered not fit for promotion to the post of L.D. Clerk.

Now, Sri Kartick Chandra Nayek comes up for consideration. Sri Nayek holds 2nd position in the zone of consideration. No adverse report appears in his service book and as such Sri Nayek is considered fit for appointment on promotion to the post of L.D.Clerk against 21st point of 50 point roster.

Accordingly Sri Sudhamoy Chowdhury, Process-Server, District Judge's Court, Bankura and Sri Kartick Chandra Nayek, Office peon of the Addl. District Judge's Court, Bishnupur are appointed on promotion to the post of L.D.Clerk w.e.f. 19.08.2015 in Pay band-2, Rs. 5400-25200/- plus Grade pay Rs. 2600/- with usual allowances.

The reserved vacancy in 21st point shall be carried forward till the next reserved vacancy occurs in 50 point roster.

Sri Chowdhury and Sri Nayek shall remain attached as L.D. Clerks in their presence offices until further order.

Service books received in connection with this order be returned forthwith.

Office to note.

Inform all concerned.

District Judge's Office, Bankura.

Sd/- K.K.Kumari

DISTRICT JUDGE,
BANKURA.

Memo No.1242/(5)..../XII....1...

Office of the District Judge, Bankura.

Dated, Bankura the11/8/15.....

Copy forwarded for information and taking necessary action to the :-

1. The Addl. Dist. Judge, Bishnupur.
2. The Judge-in-Charge of Nazareth, Dist. Judge's Court, Bankura.
3. The Judge-in-Charge of Accounts, Dist. Judge's Court, Bankura.
4. The Judge-in-Charge of Forms and Stationary, Dist. Judge's Court, Bankura.
5. Shri Sudhamoy Chowdhury, Process Server, Nazareth Depit. Dist. Judge's Court, Bankura.
6. Shri Kartick Chandra Nayek, Orderly Peon, Addl. Dist. Judge, Bishnupur.

DISTRICT JUDGE,
BANKURA.

