

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal (Chairman)****& The Hon'ble Mr. P. Ramesh Kumar (Administrative Member)**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p style="text-align: center;">9</p> <hr/> <p>26.06.2019</p>	<p>Case No. OA-1050 of 2017 : Shambhu Roy & Ors. vs. The State of West Bengal & Ors.</p> <p>Case No. OA-1051 of 2017 : Bidhan Chandra Roy & Ors. Vs. The State of West Bengal & Ors.</p> <p>For the Applicant : Mr. D.K. Chatterjee, Mr. G.P. Banerjee, Advocates</p> <p>For the Respondent : Mr. M.N. Ray, Advocate</p> <p>Since it is submitted by Mr. D.K. Chatterjee, learned advocate for the applicants that as issues are similar in OA 1050 of 2017 and O.A. 1051 of 2017 appearing in today's list, matters may be heard analogously, the matters are heard analogously.</p> <p>In these applications, the applicants have challenged the order of the State respondents in rejecting their prayer to provide appointment / employment since their land was acquired for development projects including Teesta Barrage Project on or after 17th October, 1977.</p> <p>Mr. Dilip Chatterjee, learned advocate for the applicant, referring to the memorandum dated 14th October 1980, appearing at page 70 of this application, submits that since one member from each uprooted family is eligible for</p>	

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	<p>special preference for jobs in and around the area acquired and since it has been decided that the benefit of straightaway appointment was made available only in cases wherein land in question has been acquired by the State on or after 17th October, 1977 and as any subsequent notification / memorandum cannot take away the said right, appropriate order may be passed to provide employment to the applicants, who are similarly situated. Reliance has been placed on the judgement in Canara Bank Vs. M. Mahesh Kumar : (2015) 7 SCC 412, on the ground that compassionate appointment under a scheme / plan in a particular year cannot be decided on a subsequent scheme that came into force much after the claim.</p> <p>Mr. M.N. Ray, learned advocate for the State respondents submits that the issue has been concluded by the judgement delivered on 27th August, 2018 in O.A. 17 of 2018 (Sk. Hakimuddin & 32 Others Vs. The State of West Bengal & Others) wherein it has been held that subsequent notifications shall have overriding effect over the previous notifications and the applicants are not entitled to get any compassionate appointment under direct recruitment. Rather under the exempted category the applicants are at liberty to apply whenever any notification in this regard is issued. Submission is that from an order dated 29th August, 2017 passed in O.A. 376 OF 2014 : Srinanda Baishnab & 22 Others vs. The State of West Bengal & Others, State had</p>	

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SCN	<p>filed a writ petition before the Hon'ble High Court being W.P.S.T. No. 151 of 2017, which was disposed of on 16th July, 2018 by holding that after the introduction of a new scheme by virtue of notification nos. 301-EMP / 2000, 302-EMP / 2000 and 303-EMP/2002 dated 21st August, 2002 the earlier notification does not have any force and the cases of the applicants cannot be considered. From the judgement dated 16th July, 2018 passed in W.P.S.T. 151 of 2017, a Special Leave Application was filed by the original applicants before the Hon'ble Supreme Court which has been dismissed. Moreover, it is submitted that the judgement passed by the Hon'ble Supreme Court in Canara Bank (Supra) has been referred to a larger Bench on 8th February, 2019.</p> <p>Having heard the learned advocates for the parties, since we find that the issue in question has been decided by the High Court in W.P.S.T. 151 of 2017 and the Special Leave Petition has been dismissed and as the points of law are covered by the said judgement of the High Court, therefore, no order is passed on this application. The applications being O.A. 1050 of 2017 and OA 1051 of 2017 are dismissed.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	