

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No – **OA 349 OF 2014**

Ramkrishna Chattopadhyay Vs The State of West Bengal & Ors.

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
10 <hr/> 18.07.2018	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p>For the Respondents : Mr. S.N. Ray, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents to give effect of order of his promotion in the post of Deputy Ranger/Forester w.e.f. January 2001 instead of January 19, 2009.</p> <p>The applicant joined in the post of Forest Guard under Bankura North Forest Division on February 7, 1995. The applicant had undergone six months' training course of Forest Guard at Forest Training Centre, Jhargram at 45th Session w.e.f. February 1, 2000 on the basis of order issued by Divisional Forest Officer, Bankura North Division on January 19, 2000. The applicant was selected for appointment as Deputy Ranger/Forester in terms of Recruitment Rules dated January 25, 2001 by an order dated September 30, 2008 issued by the Principal Chief Conservator of Forest, West Bengal. The applicant ultimately got the benefit of promotion to the post of Deputy Ranger/Forester with effect from the date of actual assumption of charges of the new assignment on the basis of order dated December 24, 2008 issued by the Joint Director, Sundarbans Biosphere Reserve, West</p>	

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Bengal. The contention of the applicant is that his junior in the feeder post of Forest Guard namely Narottam Mahato who had undergone six months' training course of Forest Guard during the period from December 20, 2004 to June 20, 2005 got promotion to the post of Deputy Ranger/Forester in terms of Recruitment Rules dated January 25, 2001 w.e.f December 19, 2005 as reflected from the Office Order dated December 22, 2005 issued by the Principal Chief Conservator of Forest, West Bengal. The grievance of the applicant is that the effect of his promotion should have been given from the date of publication of Recruitment Rules vide Notification No. 322-For dated January 25, 2001.

By referring to Notification No. 1697-For dated May 18, 1999 issued by Deputy Secretary to the Government of West Bengal, Department of Forest and by referring to Recruitment Rules notified on January 25, 2001, Mr. M.N. Roy, Learned Counsel for the applicant, contends that the applicant is entitled to be appointed in the post of Deputy Ranger/Forester immediately after completion of six months' training course of Forest Guard and he secured first position with Honours Certificate in the final examination of the said training course. He further submits that the applicant has been discriminated with his junior Narottam Mahato who was given promotion to the post of Deputy Ranger/Forester w.e.f. December 19, 2005

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though he completed six months' training course of Forest Guard in 47th Session, whereas the applicant completed the said training course in 45th Session and secured first position with Honours Certificate, but got the promotion to the post of Deputy Ranger/Forester only in the year 2008.

Mr. S.N. Ray, Learned Counsel representing the state respondents, has referred to paragraph 5 of reply of the state respondents and submitted that the applicant could not be given promotion to the post of Deputy Ranger/Forester immediately after completion of six months' training course of Forest Guard as there was no provision for giving such promotion in the previous Recruitment Rules vide Notification No. 2979-For dated May 7, 1974 and as the rules vide Notification No. 1697-For dated May 18, 1999 for regulating the training courses was subsequently cancelled by Notification No. 282-For/FR/N/18R-1/95 dated July 28, 2000. The gist of submission of Mr. S.N. Ray is that the applicant could not be given promotion to the post of Deputy Ranger/Forester due to absence of any provision for such promotion in the rules which were in force before publication of Notification No. 322-For dated January 25, 2001.

Having heard Learned Counsel representing both parties, we find that both the applicant and his junior Narottam Mahato had undergone six months' training

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course of Forest Guard and secured first position in the final examination of the said training course. We have found from the materials on record that no specific Recruitment Rules for giving promotion from the post of Forest Guard to the post of Deputy Ranger/Forester was in force before publication of Notification No. 322-For dated January 25, 2001. Notification No. 2979-For dated May 7, 1974 by which initial Recruitment Rules for promotion to the post of Deputy Ranger/Forester was governed have not been placed before us by either of the parties. Notification No. 1697-For dated May 18, 1999 regulates training courses for Forester, Deputy Ranger, Forest Guard. The said Notification does not give any mandate for giving promotion from the post of Forest Guard to the post of Deputy Ranger/Forester which was subsequently cancelled by Notification dated July 28, 2000 as stated in the reply of the state respondents. So, the promotion of the applicant from the post of Forest Guard to the post of Deputy Ranger/Forester on the basis of successful completion of six months' training course of Forest Guards will be guided by Notification No. 322-For dated January 25, 2001.

The Recruitment Rules vide Notification No. 322-For dated January 25, 2001 came into force after completion of six months' training course of Forest Guards by the applicant. The respondents have failed to explain why benefit of promotion was given to

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Narottam Mahato w.e.f. December 19, 2005 though he completed six months' training course of Forest Guards in 47th Session during the period from December 20, 2004 to June 20, 2005, while the applicant was given promotion to the post of Deputy Ranger/Forester with effect from the date of assuming charge on the basis of order dated December 24, 2008, in spite of completion of six months' training course of Forest Guards by the applicant in 45th Session during the year 2000. In the absence of any explanation in this regard by the state respondents, we are constrained to hold that the state respondents have discriminated against the applicant by depriving him of the opportunity to get the promotion at least from the date on which his junior Narottam Mahato got the effect of promotion to the post Deputy Ranger/Forester.

In view of our above observation, we would like to hold that the applicant is entitled to get the benefit of promotion to the post of Deputy Ranger/Forester w.e.f. December 19, 2005 i.e. the date when his junior Narottam Mahato got the benefit of promotion to the rank of Deputy Ranger/Forester. The pay of the applicant in the promotional post of Deputy Ranger/Forester will be fixed notionally with effect from the date on which his junior Narottam Mahato joined in the post of Deputy Ranger/Forester and the actual financial benefit of promotion to the post of Deputy Ranger/Forester must be given to the applicant with

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effect from his actual date of assumption of charge on the basis of order dated December 24, 2008 issued by Joint Director, Sundarbans Biosphere Reserve, West Bengal. The applicant must be placed above his juniors Narottam Mahato and Arun Kumar Pal in the seniority list of Deputy Ranger/Forester.

The respondent no. 2, Principal Chief Conservator of Forest (HoFF), Government of West Bengal is directed to complete the above exercise of giving promotion and other service benefits to the applicant in the light of the observations made hereinabove within a period of 12 (twelve) weeks from the date of communication of the order.

With the above direction, the original application is **disposed of**.

Let a plain copy of this order be supplied to both parties.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib