

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Ranjit Kumar Bag  
& The Hon'ble Dr. Subesh Kumar Das****Case No – OA 1039 OF 2018****Abhijit Das + Ors. Vs The State of West Bengal & Ors.**

<b>Serial No. and Date of order. 1</b>	<b>Order of the Tribunal with signature 2</b>	<b>Office action with date and dated signature of parties when necessary 3</b>
06 16.01.2020	<p>For the Applicants : Mr. A. Biswas, Learned Advocate.</p> <p>For the Respondent : Mrs. S. Agarwal, Learned Advocate.</p> <p>The applicants have prayed for direction upon the respondents for granting them pay scale of the promotional post of Upper Division Clerk (in short, UDC) and fix the pay and allowances of the applicants in terms of the provisions of West Bengal Services (Revision of Pay and Allowances) Rules, 2009 (in short, ROPA Rules, 2009).</p> <p>The applicants joined in Group-D post in different offices under the respondent no. 4, Special Engineer, Salt Lake Reclamation and Development Circle-cum-the Administrator, Bidhannagar, Department of Urban Development and Municipal Affairs, Government of West Bengal during the period from October 24, 1991 to January 27, 2011. They were confirmed in Group-D post on different dates during the period from April 9, 2007 to January 27, 2014. The applicants got promotion to the post of LDC on different dates during the period from November 16, 2016 to December 16, 2016 and they got subsequent promotion to the post of UDC on different dates during the period from November 22, 2016 to December 20, 2016. The</p>	

**ORDER SHEET**

Abhijit Das + Ors.

Form No.

.....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA 1039 OF 2018**

.....

contention of the applicants is that they are entitled to get basic pay and grade pay of the promotional post of UDC in terms of ROPA Rules, 2009, but they have been denied fixation of pay and salary of the promotional post.

Mr. Biswas, Learned Counsel for the applicants, has referred to the provisions of West Bengal Services (Recruitment to Clerical Cadre) Rules, 2010 (in short, Recruitment to Clerical Cadre Rules, 2010) as amended by Notification No. 9145-F(P) dated November 9, 2012 and subsequently clarified by Memorandum No. 4851-F(H)/FA/O/2E-1/162/17 (NB) dated August 4, 2017 issued by the Principal Secretary to the Government of West Bengal, Department of Finance (Audit) and submitted that the promotion of the applicants in the post of UDC must be treated as regular promotion without passing examination of computer operation and computer typing, though the applicants may have to refund excess payment made to them as LDC. On our query, Learned Counsel fairly submits that the applicants never submitted any application before the respondent no. 4 praying for exemption from appearing in the examination on computer operation and computer typing. Nor have the applicants furnished information whether they attained age of 50 years at the time of their promotion to the post of LDC.

On the other hand, Mrs. Agarwal, Learned Counsel representing the state respondents, contends that the applicants

**ORDER SHEET**

Abhijit Das + Ors.

Form No.

.....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA 1039 OF 2018**

.....

will not be permitted to get the increment in the pay scale applicable to them for not passing examination on computer operation and computer typing, which is made compulsory for recruitment to the post of LDC in terms of the Recruitment to Clerical Cadre Rules, 2010 as amended on November 9, 2012.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicants got promotion to the post of LDC from the post of Group-D service in the year 2016 without passing examination on computer operation and computer typing. Admittedly, the applicants got further promotion to the post of UDC within a period of almost two months from the date of promotion to the post of LDC without passing examination on computer operation and computer typing. Now, the issue for consideration of the Tribunal is whether the applicants are entitled to get benefit of pay scale of the promotional post in terms of the provisions of Recruitment to Clerical Cadre Rules, 2010 as amended by Notification dated November 9, 2012 and subsequently clarified by Memorandum dated August 4, 2017.

We have already observed that we do not have any information whether the applicants attained 50 years of age on the date of promotion to the post of LDC. Admittedly, no applicant submitted any application before the respondent no. 4 or any other authority of the State Government for exemption

# ORDER SHEET

Abhijit Das + Ors.

Form No.

.....

**Vs.**

**The State of West Bengal & Ors.**

.....

Case No. **OA 1039 OF 2018**

from appearing in examination on computer operation and computer typing. The provisions of Recruitment to Clerical Cadre Rules, 2010 as amended by Notification dated November 9, 2012 indicate that any Government employee appointed on promotion from Group-D service will have to pass the examination on elementary knowledge in computer operation and computer typing, in default of passing the said examination, the concerned employee shall not be entitled to get annual increment and benefit of career advancement. The provisions of Recruitment to Clerical Cadre Rules, 2010 as amended by Notification dated November 9, 2012 were further clarified by Memorandum dated August 4, 2017, so that each individual Government employee can seek for redressal of his grievances for not passing examination on computer operation and computer typing even after getting promotion from Group-D service to LDC. The state respondents can invoke the provisions of Recruitment to Clerical Cadre Rules, 2010 as amended on November 9, 2012 and clarified by Memorandum dated August 4, 2017 for giving benefit of exemption to any specific Government employee from appearing in the examination on computer operation and computer typing. The state respondents can also invoke the provisions of the above rules and memorandum for giving benefit of service including financial benefit, if any to specific Government employee on consideration of service record and representation submitted by the said employee in this regard. Since the present applicants

**ORDER SHEET**

Abhijit Das + Ors.

Form No. ....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA 1039 OF 2018**

have not submitted any representation either for exemption from appearing in the examination on computer operation and computer typing or for appearing in the said examination for getting benefit of the Recruitment to Clerical Cadre Rules, 2010 clarified by the Memorandum dated August 4, 2017, we are inclined to give each of the applicants liberty to submit such representation before the respondent no. 4 within specific period of time. In view of our above observation, we would like to hold that the respondent no. 4 will consider whether each of the applicants will be entitled to get the benefits in terms of the Recruitment to Clerical Cadre Rules, 2010 as amended on November 9, 2012 and clarified by Memorandum dated August 4, 2017 on the basis of the representation, if any submitted by the applicant within specific period of time.

Under the above circumstances, we are giving liberty to each of the applicants to submit representation before the respondent no. 4, Special Engineer, Salt Lake Reclamation and Development Circle – cum - Administrator, Bidhannagar, Department of Urban Development and Municipal Affairs, Government of West Bengal either for exemption from appearing in the examination on computer operation and computer typing or for appearing in the said examination on computer operation and computer typing within a period of 4 (four) weeks from the date of this order. If such representation is made by each of the applicants individually within stipulated

# ORDER SHEET

Abhijit Das + Ors.

Form No.

.....

**Vs.**

**The State of West Bengal & Ors.**

.....

Case No. **OA 1039 OF 2018**

period of time, the respondent no. 4 will consider the said representation in terms of the provisions of Recruitment to Clerical Cadre Rules, 2010 as amended by the Notification dated November 9, 2012 and clarified under Memorandum dated August 4, 2017 by giving appropriate relief by passing a reasoned order within a period of 8 (eight) weeks from the date of receiving representation and take necessary follow up action within a period of 4 (four) weeks thereafter.

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

The **urgent xerox certified copy** of this order, if applied for by either of the parties, may be supplied on priority basis on compliance of all necessary formalities.

( S.K. DAS )  
MEMBER(A)

( R. K. BAG )  
MEMBER (J)

Sanjib