

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 136 OF 2014

Chinmoy Sen 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
20 07.08.2019	<p>For the Applicant : Ms. B. Sarbajna, Learned Advocate</p> <p>For the Respondents : Mr. D. Kole, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for re-fixation of pay by giving pay protection to the applicant by taking into consideration pay scale and increment of one Biman Barua.</p> <p>The applicant joined in the service as Surveyor in PW (Roads) Directorate, West Bengal on September 10, 1979. He got non-functional promotion in the post of Surveyor-I in the scale of pay of Rs.1420-3130/- w.e.f. April 1, 1997. He retired from service on July 31, 2011. The grievance of the applicant is that his pay was not properly fixed on promotion to the post of Surveyor-I and as such he is entitled to get arrears of salary after getting pay protection in terms of Rule 42 (1) of West Bengal Service Rules, Part-I.</p> <p>With the above factual matrix, Learned Counsel for the applicant submits that the applicant has accepted the order of pay fixation communicated by the Executive Engineer, Highway Survey Division No. II on March 21, 2016. Learned Counsel further submits that the state respondents should take necessary follow up</p>	

ORDER SHEET

Chinmoy Sen

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 136 OF 2014**

action in terms of the status report dated March 21, 2016.

We have also heard Learned Counsel representing the state respondents who supports the pay fixation communicated on March 21, 2016.

It appears from the status report submitted by the state respondents that pay of the applicant was fixed at Rs.6525/- on promotion to Grade-I post on April 1, 1997, while the pay of one Biman Barua was fixed at Rs.6475/- on April 1, 1997. Ultimately, on December 1, 1997, Biman Barua got promotion to Grade-I post after getting usual increment of 1st September, 1997 and thereby his pay of promotion was fixed at Rs.6925/- on December 1, 1997, whereas the pay of the applicant was fixed at Rs.6725/- on December 1, 1997. The disparity in the pay of the applicant and Biman Barua on December 1, 1997 may be attributed to the fact that while the applicant got promotion before getting increment in the feeder post on April 1, 1997, Biman Barua got promotion to Grade-I post after getting increment in the feeder post and thereby Biman Barua got higher pay in the promotional post on the date of his promotion and the applicant got slightly lower pay in the said promotional post on the date of promotion of Biman Barua. However, the said fixation of pay is accepted by the applicant as submitted by Learned Counsel for the applicant before us.

In view of our above findings, the respondent no. 5, Executive Engineer, Highway Survey Division No. III, Public Works

ORDER SHEET

Chinmoy Sen

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 136 OF 2014**

(Roads) Directorate is directed to take necessary follow up action in terms of the status report submitted on March 21, 2016 by him 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.**

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib