

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 20 OF 2018

Subodh Chandra Mallick 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
02 16.01.2019	<p>For the Applicant : Mr. G. Dinda, Learned Advocate.</p> <p>For the Respondent : Mr. G.P. Banerjee, Mr. S. Roy Chowdhury, Learned Advocates.</p> <p>The applicant has prayed for direction upon the respondents for regularisation of the salary of the applicant and grant him benefit of service from the date of his selection in the year 1997 after setting aside the order communicated under letter dated November 14, 2017 issued by the Assistant Secretary to the Government of West Bengal, Department of Agriculture.</p> <p>It appears from the materials on record that the name of the applicant was recommended by the Public Service Commission, West Bengal for appointment in a temporary post of West Bengal Agricultural Service as a direct recruit. This fact was communicated to the applicant by the Deputy Secretary to the Government of West Bengal, Department of Agriculture by issuing one letter dated December 8, 1997, whereby the applicant was requested to fill up the blank VR and submit the same to the department within a fortnight from the date of receipt of the said letter. The report of VR was submitted against the applicant by Deputy Inspector General of Police, Intelligence Branch, Government of West Bengal and as such appointment</p>	

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letter was not issued in favour of the applicant. Subsequently, the applicant being a Bangladeshi national obtained citizenship certificate on February 9, 2011 under the provisions of Section 5(1)(e) of the Citizenship Act, 1995 and a favourable report of VR was submitted by Deputy Inspector General of Police, Intelligence Branch, West Bengal. However, appointment letter was not issued in favour of the applicant even after favourable report of VR in favour of the applicant. The applicant approached the Tribunal by filing OA-1363 of 2014 which was disposed of on September 9, 2015. By the said order, this Tribunal directed the concerned respondent to issue appointment letter in favour of the applicant for the post of Assistant Director of Agriculture with immediate effect. The applicant, thus, got appointment to the post of Assistant Director of Agriculture by Notification dated March 2, 2016.

With the above factual matrix, Learned Counsel for the applicant contends that the applicant is entitled to get benefit of service from the date of his initial selection by Public Service Commission, West Bengal on December 8, 1997. Learned Counsel further submits that refusal of claim of the applicant for not granting benefit of service from the date of his selection is arbitrary and not justified under the law.

Learned Counsel representing the state respondents, submits that the applicant is not entitled to get any benefit of service before the date of joining in the service.

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Having heard Learned Counsel representing both parties and on consideration of the background facts of appointment of the applicant in the post of Assistant Director of Agriculture on March 2, 2016, we find that the applicant migrated from erstwhile East Pakistan to India long back. The adverse report of VR was submitted against the applicant by the Intelligence Branch and thereby appointment was withheld. The issuance of citizenship certificate in favour of the applicant by the under Secretary to the Government of India, Ministry of Home Affairs on February 9, 2011 was considered by the Intelligence Branch for giving favourable report in the case of the applicant. The adverse report of Police Verification stood on the way of granting appointment to the applicant and thereby Department of Finance, Government of West Bengal raised objection for issuance of appointment in favour of the applicant after long lapse of time. Ultimately, the applicant got the order of appointment by the order of the Tribunal

The delay in issuance of the appointment letter in favour of the applicant after his selection by Public Service Commission, West Bengal cannot be attributed to the conduct of the state respondents. The applicant is responsible for the delay by not producing the certificate of registration for Citizenship of India before the Intelligence Branch, Government of West Bengal. It is well settled that the benefit of service can never be granted in favour of any Government employee before his joining in the service. So, the claim of the applicant for granting

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benefit of service from the date of his selection by Public Service Commission, West Bengal till the date of his actual appointment in the year 2016 is totally misconceived and is not justified under the law. We do not find any illegality or arbitrariness in the impugned order communicated to the applicant by the Assistant Secretary to the Government of West Bengal, Department of Agriculture on November 14, 2017 (Annexure-Q to the original application).

In view of our above findings, we do not find any merit in the present application. As a result, the original application is **dismissed.**

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib