

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

**Hon'ble Justice Soumitra Pal, Hon'ble Chairman  
& Hon'ble Dr. Subesh Kumar Das, Administrative Member**

**Case No – OA 200 OF 2019**

Dr. (Mrs.) Sarbari Swaika 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
03 24.04.2019	<p>For the Applicant : Mr. G.P. Banerjee, Learned Advocate.</p> <p>For the Respondent : Mr. B.P. Roy, Learned Advocate.</p> <p style="text-align: center;">Affidavit of service filed be kept on record.</p> <p>In this application, the applicant, an Associate Professor (Anesthesiology) at Bankura Sammilani Medical College, Bankura, has prayed for a direction upon the respondent authorities to grant provisional promotion in terms of Memorandum dated 12<sup>th</sup> June, 1980 issued by the Home Department, Personnel and Administrative Reforms Branch, Government of West Bengal with effect from the date of grant of the said promotion to her contemporaries, so withheld on a plea that the departmental proceedings are pending against her.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the applicant, submits that though disciplinary proceedings have been initiated on 4<sup>th</sup> July, 2013 and are still continuing, however, as it is evident from an</p>	

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Dr. (Mrs.) Sarbari Swaika

Form No. ....

**Vs.**

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

Case No. **OA 200 OF 2019**

<p>intimation dated 23<sup>rd</sup> May, 2016 issued by the State Vigilance Commission that the State Vigilance Commissioner has found that charges have not been proved and though Memorandum dated 12<sup>th</sup> June, 1980, particularly paragraph 2 (ii), stipulates that promotion should not be held up where proceedings are continuing for more than three years unless it is shown that it is being delayed for dilatory tactics of the officer concerned or a case has been filed at the instance of the officer, the State respondents are yet to take a decision. It is submitted since the applicant has furnished an application dated 26<sup>th</sup> November, 2018 before the Additional Chief Secretary to the Government of West Bengal, Department of Health &amp; Family Welfare and Director of Medical Education and Ex-Officio Secretary, Department of Health &amp; Family Welfare, Government of West Bengal the respondent nos. 1 and 2 respectively, praying for promotion to the post of Professor (Anesthesiology) on provisional basis, appropriate order be passed. In support of his submission Mr. Banerjee relied on the judgment delivered on 18<sup>th</sup> September, 2018 by the High Court in WPST No. 113 of 2018 Supriya Mondal vs. State of West Bengal &amp; Others.</p>	
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Form No.

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Case No. **OA 200 OF 2019**

Mr. B.P. Roy, learned advocate appearing on behalf of the respondents submits that if directed the respondent authorities will consider the application dated 26<sup>th</sup> November, 2018 and will take a decision in accordance with law with regard to promotion to the applicant on provisional basis.

Having heard Mr. Banerjee and Mr. Roy, learned advocates for the parties, and considering the facts and circumstances of the case, the original application is disposed of by directing the Additional Chief Secretary, Department of Health & Family Welfare – respondent no. 1 to dispose of the representation dated 26<sup>th</sup> November, 2018 filed by the applicant for promotion to the post of Professor (Anesthesiology) on provisional basis by passing a reasoned order to be communicated to the parties within a period of ten weeks from the date of presentation of the copy of this order after giving an opportunity of hearing to the applicant and after considering the judgment passed in Supriya Mondal (supra) and the memorandum dated 12<sup>th</sup> June, 1980.

Sanjib, Sukhendu &  
Chandra

**( S.K. Das )**  
**MEMBER(A)**

**( Soumitra Pal )**  
**Chairman**

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