

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

**Case No – OA 229 of 2015**

Ketaki Sankar Adhikaree 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
14 14.02.2019	<p>For the Applicant : Mr. U. Chakraborty, Mrs. S. Bhattacharya, Learned Advocates.</p> <p>For the Respondent : Mr. D. Kole, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for fixation of scale of pay of the applicant at par with one Sham Sunder Vinayak, Assistant Commissioner of Disabilities on the ground that Sham Sunder Vinayak got higher scale of pay than the applicant, though he was junior to the applicant in the service.</p> <p>It appears from the materials on record that the applicant joined as District Social Welfare Officer on August 29, 1980 and got promotion to the post of Assistant Director of Social Welfare in the pay scale of Rs.8000-13,500/- in the Directorate of Social Welfare, Government of West Bengal on October 3, 1997. The contention of the applicant in paragraph 5 of the application is that he worked on deputation in the post of Secretary, West Bengal Welfare Advisory Board, Bhabanibhawan in the scale of pay enjoyed by the applicant for the post of Assistant Director of Social Welfare during the period from February 2, 1999 to January 31, 2000. It appears from Notification dated September</p>	

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5, 2002 issued by the Programme Officer and Ex-Officio Deputy Secretary to the Government of West Bengal, Department of Women and Child Development and Social Welfare that while the applicant was holding the post of Assistant Director of Social Welfare and posted on deputation as Assistant Commissioner in the office of Commissioner for the persons with disabilities, Government of West Bengal, he got promotion to the post of Deputy Director of Social Welfare under the Director of Social Welfare in the scale of pay of Rs.8000-13,500/-. The Notification further indicates that the applicant while holding substantive post of Deputy Director of Social Welfare will discharge the function of Assistant Commissioner in the office of the Commissioner for the persons with disabilities, Government of West Bengal on deputation in the scale of pay of Rs.8000-13,500/- until further order.

With the above background facts, the applicant is claiming equality in scale of pay with one Sham Sunder Vinayak who initially joined in the project of District Rehabilitation Centre on June 30, 1984 in the scale of pay of Rs.660-1600/- by the Project Coordinator of District Rehabilitation Centre, Midnapore. Subsequently, Sham Sunder Vinayak worked in the said project as Vocational Guiding Officer in the pay scale of Rs.12,000-18,000/-, but the project was ultimately closed for not providing fund by the Central Government w.e.f. April 1, 2006. By the order of the Hon'ble Supreme Court of India passed on

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November 10, 2006, the employees of the said project including the present applicant were absorbed in the Department of Social Welfare. Sham Sunder Vinayak, thus, got appointment in the post of Assistant Commissioner in the office of Commissioner for the persons with disabilities, Government of West Bengal in the same scale of pay of Rs.12,000-18,000/- in an ex-cadre post which is liable to be abolished after retirement/resignation of Sham Sunder Vinayak.

With the above factual matrix, we find that Sham Sunder Vinayak was holding an ex-cadre post of Assistant Commissioner in the office of Commissioner for the persons with disabilities, Government of West Bengal in the scale of pay of Rs.12,000-18,000/-. The post held by Sham Sunder Vinayak is not included in the cadre of Assistant Commissioner in the office of Commissioner for the persons with disabilities, Government of West Bengal. On the other hand, the present applicant holding the substantive post of Deputy Director of Social Welfare has been working as Assistant Commissioner in the office of Commissioner for the persons with disabilities, Government of West Bengal on deputation in the scale of pay of Rs.8000-13,500/-. There is nothing on record to indicate that the applicant was absorbed in the deputation post of Assistant Commissioner in the office of Commissioner for the persons with disabilities at any material point of time. A deputationist can never claim the benefit of seniority and financial benefit in terms

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of rules applicable to the post of deputation. A deputationist is entitled to claim seniority and financial benefit in terms of the rules of the parent department to which he belongs. Accordingly, the applicant has no place in the gradation list or seniority list of Assistant Commissioner in the office of Commissioner for the persons with disabilities, Government of West Bengal. Sham Sunder Vinayak also made lateral entry into the post of Assistant Commissioner in the office of Commissioner for the persons with disabilities, Government of West Bengal in the same scale of pay of Rs.12,000-18,000/- which was drawn by him in the project before his lateral entry in an ex-cadre post on the basis of direction of the Hon'ble Supreme Court of India and as such he is not included in the seniority list or gradation list of the Assistant Commissioner.

In view of our above observation, we are unable to accept the contention made on behalf of the applicant that Sham Sunder Vinayak was junior to the applicant in the cadre of Assistant Commissioner in the office of Commissioner for the persons with disabilities, Government of West Bengal. Nor can we persuade ourselves to accept the contention made on behalf of the applicant that the applicant is entitled to get pay scale of Rs.12,000-18,000/- enjoyed by Sham Sunder Vinayak by holding ex-cadre post on the basis of direction of the Hon'ble Supreme Court of India. The natural corollary of our above observation is that the applicant is not entitled to get any relief in

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Sanjib	<p>the present application. The original application is, thus, <b>dismissed.</b></p> <p>Let urgent xerox certified copy of the order be supplied to the parties on priority basis, if applied for, after observance of all necessary formalities.</p> <p>( S.K. DAS ) MEMBER(A)</p> <p>( R. K. BAG ) MEMBER (J)</p>	
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