

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 27 OF 2014

Smt. Krishna Jha 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
22 02.01.2019	<p>For the Applicant : Mrs. I. Chakraborty, Learned Advocate</p> <p>For the Respondents : Mrs. S. Agarwal, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for giving benefit of Career Advancement Scheme after completion of 16 years and 25 years of service and for grant of revised pension and other ancillary reliefs.</p> <p>The applicant joined in the post of L.D. Clerk in the establishment of the respondent no. 3 on September 15, 1981. The applicant got benefit of Career Advancement Scheme after completion of 10 years of service on September 15, 1991. The applicant also got promotion to the post of Upper Division Clerk in the establishment of respondent no. 3 on December 3, 1996 in terms of Memo. No. 1259-SC/Apt./IA-15p-96 dated December 3, 1996, but the applicant refused to accept promotion. The letter given by the applicant by refusing promotion was duly accepted by the respondent no. 3 on February 26, 1997. Subsequently, the applicant submitted representation before the respondent no. 3 on January 4, 2002, whereby the applicant prayed for giving her promotional post in the same station where the applicant was posted as LD. Clerk. The applicant subsequently submitted representations claiming promotion and benefit of Career</p>	

ORDER SHEET

Smt. Krishna Jha

Form No.

Vs.

The State of West Bengal & Ors.

Case No. **OA 27 OF 2014**

Advancement Scheme. Ultimately, the applicant got promotion to the post of U.D. Clerk on December 3, 2010 and thereafter the applicant retired on December 31, 2010. The grievance of the applicant is that she was not given benefit of Career Advancement Scheme after completion of 16 years of service and 25 years of service. The further grievance of the applicant is that she was not granted promotion in spite of availability of vacancy in the cadre of U.D. Clerk in the establishment of 3 long before her retirement from service.

The question for consideration of the Tribunal is whether the applicant is entitled to get benefit of Career Advancement Scheme after completion of 16 years of service and 25 years of service. The state respondents have specifically pointed out in the reply that the applicant is not entitled to get benefit of Career Advancement Scheme in terms of Memorandum No. 9120-F dated November 13, 2000 issued by the Finance Department, Audit Branch, Government of West Bengal, as the applicant wilfully refused promotion within a span of 10 years or 20 years of service. On consideration of Memorandum No. 9120-F dated November 13, 2000 issued by the Finance Department, Audit Branch, Government of West Bengal, we find that a Government employee who wilfully refuses promotion within the span of 10 years or 20 years of service, is not entitled to get any benefit of Career Advancement Scheme of 1990. In the instant case, the applicant wilfully refused promotion to the post of U.D. Clerk in the establishment of the respondent no. 3 when the promotion was

ORDER SHEET

Smt. Krishna Jha

Form No.

Vs.

The State of West Bengal & Ors.

Case No. **OA 27 OF 2014**

given to the applicant on December 3, 1996. The subsequent representations given by the applicant clearly indicates that she wanted posting by way of promotion to the cadre of U.D. Clerk in the same station where she was working as L.D. Clerk. The wilful refusal on the part of the applicant for promotion to the post of U.D. Clerk is the justified ground for depriving the applicant of the benefit of Career Advancement Scheme of 1990 after completion of 10 years or 20 years of service as laid down in Memorandum No. 9120-F dated November 13, 2000 issued by the Finance Department, Audit Branch, Government of West Bengal. Since the applicant refused promotion wilfully, she was not entitled to get benefit of promotion with retrospective effect as contended by Learned Counsel for the applicant. Nor is the applicant entitled to get benefit of Career Advancement Scheme of 1990 after completion of 10 years or 20 years of service due to her refusal to get promotion to the cadre of U.D. Clerk in the year 1996. The natural corollary of our above observation is that the pension of the applicant cannot be revised by giving the applicant benefit of either promotion with retrospective effect or benefit of Career Advancement Scheme for completion of 16 years and 25 years of service.

As a result, the present application is liable to be dismissed. It is pertinent to point out that the applicant has approached the Tribunal in the year 2014 after her retirement from service on December 31, 2010. This delay of almost 4 years for approaching the Tribunal has not been explained by the applicant by submitting

ORDER SHEET

Smt. Krishna Jha

Form No.

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Vs.

The State of West Bengal & Ors.

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Case No. **OA 27 OF 2014**

Sanjib	<p>any application under section 21(3) of the Administrative Tribunals Act, 1985, in spite of giving liberty to the applicant in this regard by an order dated July 10, 2018. The original application is, thus, dismissed.</p> <p>(S.K. DAS) MEMBER(A)</p>	<p>(R. K. BAG) MEMBER (J)</p>
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