

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 279 OF 2017**

Smt. Suchita Ray 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
<p style="text-align: center;">08 <hr/>30.11.2018</p>	<p>For the Applicant : Mrs. M.D. Chowdhury, Learned Advocate.</p> <p>For the Respondents : Mr. R.A. Chowdhury, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for grant of seniority and fixation of pay of the applicant with effect from the month of August 2006 and other consequential reliefs.</p> <p>The contention of the applicant is that he was selected for the post of Gram Sevika on the basis of the screening test in the year 2006. It appears from the materials on record that the applicant was placed in the 14th position in the merit list prepared in the year 2006. Learned Counsel for the applicant submits that 13 candidates got the appointment and one Ms. M. Roy, who was not in the panel got appointment in 14th vacancy available at the relevant point of time by virtue of the order passed by the Hon'ble High Court. The applicant moved the Tribunal by filing OA-945 of 2009 which was disposed of on June 13, 2011 by directing the state respondents to accommodate the applicant in the next available vacancy for appointment in the post of Gram Sevika in the district of Birbhum. Since the appointment was not made, the applicant again moved the Tribunal by filing OA-747 of 2012 which was again disposed of on October 12, 2012 by</p>	

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directing the state respondents to take a decision about appointment of the applicant in the post of Gram Sevika within stipulated period of time. The applicant was not successful in getting appointment in the post of Gram Sevika and the applicant again approached the Tribunal by filing OA-988 of 2013 which was disposed of on December 20, 2013 by directing the state respondents to give appointment to the applicant in the post of Gram Sevika in the district of Birbhum within a period of four weeks from the date of communication of the order. As a result, the applicant got the appointment by order of the District Magistrate, Birbhum on February 20, 2014.

Relying on decision of the Hon'ble Supreme Court in "Balwant Singh Narwal & Others v State of Haryana and Ors." (Civil Appeal No. 2098 of 2007 decided on July 8, 2008), Learned Counsel for the applicant contends that the applicant is entitled to get benefit of seniority and notional fixation of pay with effect from the month of August 2006 on the ground that the issuance of appointment in favour of the applicant was delayed due to pendency of litigation in spite of existence of available vacancy. On consideration of the materials on record, we find that the applicant was placed in the 14th position in the merit list and there were 14 vacancies available for appointment in the post of Gram Sevika in the year 2006. One candidate, Ms. M. Roy got the appointment in the post of Gram Sevika by order of the Hon'ble High Court in the year 2006 and 13 candidates from

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the merit list also got the appointment in the year 2006. Naturally, no vacancy was available for giving appointment to the applicant in the year 2006 and as such the Tribunal passed the order on June 13, 2011 in OA-945 of 2009 for accommodating the applicant in the next available vacancy of Gram Sevika in the district of Birbhum. Since the vacancy was not available for giving appointment of the applicant in the post of Gram Sevika in the district of Birbhum in the year 2006 and since the Hon'ble Supreme Court gave the benefit of seniority to the appellants in "Balwant Singh Narwal" (supra) for not giving appointment to them in spite of existence of vacancy due to pendency of litigation, we are of the view that the ratio of "Balwant Singh Narwal" (supra) cannot have any application in the facts of the present case.

The applicant did not serve in any post before appointment in the post of Gram Sevika by order of the District Magistrate, Birbhum on February 20, 2014 and as such the applicant cannot get the benefit of seniority or fixation of pay even notionally from the month of August 2006 as prayed for.

In view of our above findings, the original application is **dismissed.**

Let a plain copy of this order be supplied to both parties.

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

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