

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

**Case No – OA 33 OF 2020**

**Krishna Gopal Biswas & Ors. 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 17.02.2020	<p>For the Applicants : Mr. S. Ghosh, Mr. M.N. Roy, Mr. G. Halder, Mr. R.K. Mondal, Learned Advocates.</p> <p>For the State Respondent : None.</p> <p>For the Pvt. Respondents No. 6-16 : Mr. D.N. Roy, Mr. A. Chakraborty, Learned Advocates.</p> <p>Affidavit of service filed on behalf of the applicants is kept on record.</p> <p>Three Vakalatnamas filed on behalf of the private respondents today are also kept on record.</p> <p>None appears on behalf of the state respondents.</p> <p>Mr. S. Ghosh, Learned Counsel for the applicants assisted by Mr. M.N. Roy, Learned Counsel for the applicants submits that the applicants have been placed below the private respondents in the draft gradation list of Assistant Engineers published in the year 2018. He further submits that the private respondents were initially appointed on adhoc basis as Assistant Engineers and their service was regularised by way of Cabinet decision in the year 2008, which is being challenged by the applicants in the present application. Mr. Ghosh has prayed for an interim order to the effect that if any promotion is given to the private respondents to the post of Executive Engineers, the said promotion must abide by the</p>	

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decision of the present original application.

Mr. D.N. Roy, Learned Counsel representing the private respondents submits that the applicants initially joined as Sub-Assistant Engineer and did not attain the eligibility to get promotion to the post of Assistant Engineer on the date on which the service of the private respondents was regularised in the post of Assistant Engineers by way of Cabinet decision. He further submits that the applicants cannot be permitted to challenge the order of regularisation of the private respondents in the post of Assistant Engineer by way of Cabinet decision after lapse of almost twelve years. He has also raised objection to the admission of the present application.

Having heard Learned Counsel representing both parties, we are inclined to admit the original application, though the issue of limitation will remain open for decision at the time of final hearing.

The respondents are directed to file reply within a period of 4 (four) weeks and rejoinder may be filed by the applicants within a period of 2 (two) weeks thereafter.

Admittedly, the applicants have been placed below the private respondents in the gradation list of Assistant Engineers, which was published in the form of draft gradation list in the year 2018. The further admitted position is that the applicants did not attain the eligibility for getting promotion to the post of Assistant Engineers in the year 2008 when the service of the private respondents was regularised in the post of Assistant Engineers by way of Cabinet decision. However, since the very issue of

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regularisation of the private respondents by way of Cabinet decision is challenged by the applicants in the present application though belatedly, we are inclined to pass an interim order in the present application. With regard to the delay of twelve years in approaching the Tribunal by the applicants for challenging the order of regularisation of the private respondents by way of a Cabinet decision in the year 2008, we would like to consider the submission of Mr. Ghosh that the applicants were not aware of the fact of placing them below the private respondents in the gradation list of Assistant Engineers before the year 2018.

Under the above circumstances, the state respondents may grant promotion to the private respondents to the post of Executive Engineers, subject to the decision of the present application.

List the matter under the heading “**Reply/Rejoinder**” on **08.04.2020**.

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

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

**( R. K. BAG )**  
MEMBER (J)

Sanjib