

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

**Case No – OA 363 OF 2014**

Radhashyam Bairagya 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
11 09.01.2019	<p>For the Applicant : Mr. S. R. 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 granting him promotion to the post of Assistant Director of Fisheries from the post of District Fisheries Officer w.e.f. February 11, 2011 after setting aside the impugned order dated February 11, 2014 passed by the Principal Secretary to the Government of West Bengal, Department of Fisheries, Aquaculture, Aquatic Resources &amp; Fishing Harbours (in short Department of Fisheries), by which claim of the applicant for promotion w.e.f. February 11., 2011 was turned down.</p> <p>The applicant claims to have joined as District Fisheries Officer, Murshidabad in terms of letter of appointment dated November 27, 2008 issued by the Assistant Director of Fisheries, Murshidabad. The contention of the applicant is that the respondent no. 6 was placed below the applicant in the gradation list and that the applicant belongs to Scheduled Caste category and the respondent no. 6 belongs to Scheduled Tribe category. The further contention of the applicant is that respondent no. 6 was granted promotion to the post of Assistant</p>	

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Director of Fisheries on February 11, 2011 whereas the applicant was denied promotion to the post of Assistant Director of Fisheries, even though the applicant was within the zone of consideration for filling up three vacancies in the cadre of Assistant Director of Fisheries by way of promotion.

Learned Counsel representing the applicant contends that the respondent no. 6 being junior to the applicant was granted promotion whereas promotion was denied to the applicant even when applicant was brought within the zone of consideration for promotion to the post of Assistant Director of Fisheries. On the other hand, Learned Counsel representing the state respondents has relied on paragraph 8 of the reply and submitted that the applicant was within the zone of consideration for filling up three vacancies in the cadre of Assistant Director of Fisheries by way of promotion, but the respondent no. 6 who was also within the zone of consideration was found suitable for promotion and thereby got promotion to the post reserved for Scheduled Tribe candidate. He further submits that two other candidates who got promotion to the post of Assistant Director of Fisheries were found suitable and were placed above the applicant in the list of eligible officers for grant of promotion.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that in the year 2011 there were three vacancies to be filled up in the

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<p>cadre Assistant Director of Fisheries by way of promotion from District Fisheries Officers by observing 50 point roster maintained as per provisions of Section 6 of the West Bengal Scheduled Castes &amp; Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1976 as amended in the year 2000. By virtue of the said 50 point roster, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> vacancies were to be filled up by way of promotion to the post of Assistant Director of Fisheries. It appears from the reasoned order dated February 11, 2014 (Annexure-H to the original application) that 4<sup>th</sup> vacancies was reserved for Scheduled Tribe candidate, whereas 3<sup>rd</sup> and 5<sup>th</sup> vacancies were meant for unreserved category of candidate. By invoking the provision of Rule 10 of the West Bengal Scheduled Castes &amp; Scheduled Tribes (Reservation of Vacancies in Services and Posts) Rules, 1976, we find that five times of the number of vacancies to be filled up by promotion will be taken into consideration from the feeder posts and thereby 15 eligible officers in the gradation list came within the zone of consideration for promotion to the post of Assistant Director of Fisheries. The applicant was within the zone of consideration as candidate belonging to Scheduled Caste category, whereas the respondent no. 6 was also within the zone of consideration as Scheduled Tribe candidate. Since the respondent no. 6 was found to be suitable for promotion, he got promotion in the post of Assistant Director of Fisheries in the 4<sup>th</sup> vacancies reserved for Scheduled Tribe and one Asoke Karmakar and Alok Nath Praharaj who were placed above the</p>	
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applicant in the list of eligible candidates within the zone of consideration were also found suitable and got promotion to the post of Assistant Director of Fisheries in the 3<sup>rd</sup> and 5<sup>th</sup> vacancies of unreserved category in 50 point roster. Accordingly, we do not find any justification in the grievance ventilated by the applicant in the present application. Nor do we find any arbitrariness or illegality in the impugned order under challenge in the present application. The original application is, thus, **dismissed**.

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

( S.K. DAS )  
MEMBER(A)

( R. K. BAG )  
MEMBER (J)

Sanjib