

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 397 of 2015

Sk. Muktar Ali v/s 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 20.09.2018	<p>For the Applicant : None.</p> <p>For the Respondents : Mr. S. Bhattacharjee, Departmental Representative.</p> <p>The applicant has prayed for direction upon the respondents to grant proforma promotion to the applicant in the post of Special Revenue Officer (SRO), Grade-I and disburse consequential financial benefits.</p> <p>It appears from the materials on record that the applicant joined in the post of Kanungo-I in the year 1974 and got promotion to the post of SRO, Grade-II in due course. While the applicant was working as Block Land & Land Reforms Officer, Goghat-I , he was arraigned as an accused in a criminal case under section 7 of the Prevention of Corruption Act, 1988 and under section 13 (1) of the Prevention of Corruption Act, 1988. The applicant was arrested and detained in custody and was suspended from service under the provisions of West Bengal Services (Classification, Control and Appeal) Rules, 1971. The departmental proceeding was also initiated against the applicant on the self-same allegation on which the criminal case was started against him. The junior to the applicant in the service superceded him due to pendency of the criminal case and departmental proceeding against the applicant in the year 2008.</p>	

ORDER SHEET

Sk. Muktar Ali

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA-397 of 2015**

The applicant retired from service on January 31, 2011. The applicant was acquitted of the charge by the criminal court by delivery of judgment on October 12, 2012. The departmental proceeding initiated against the applicant was also dropped by the disciplinary authority on October 1, 2013. On March 19, 2014, the applicant submitted one application before the Joint Secretary to the Government of West Bengal, Department of Land & Land Reforms praying for proforma promotion to the post of SRO, Grade-I with retrospective effect and consequential benefits of service.

The issue which calls for determination is whether the applicant is entitled to get benefit of promotion in the service due to acquittal of the charge by the criminal court and due to dropping of charge by the disciplinary authority after the retirement of the applicant from service. The further issue to be decided by the Tribunal is whether the applicant is entitled to get consequential financial benefit, if promotion is granted to the applicant with effect from the date when his immediate junior in the service was granted promotion to the next higher post in the service.

None appears on behalf of the applicant on call. We have heard Mr. S. Bhattacharjee, the Departmental Representative of the state respondents. Since the case of the applicant is pending for hearing for last three years and since no one represented the applicant consistently before this Tribunal

ORDER SHEET

Sk. Muktar Ali

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA-397 of 2015**

as reflected from the orders kept on record, we are inclined to dispose of the present application on merit.

The undisputed facts emerging from the materials on record are that the immediate junior to the applicant in the service got promotion to the next higher post in the year 2008 when both criminal case and departmental proceeding were pending against the applicant. The applicant was acquitted of the criminal charge by the competent court of law on October 12, 2012 and the disciplinary proceeding was dropped by the disciplinary authority on October 1, 2013 i.e. long after ten months of superannuation of the applicant on January 31, 2011. Since the applicant is acquitted of the criminal charge by the competent court of law and since the disciplinary proceeding initiated against the applicant was dropped, the applicant is entitled to get the benefit of promotion from the date when his immediate junior got promotion to the next higher post in the year 2008. The applicant did not work in the promotional post due to pendency of the criminal case and departmental proceeding against him, though order of suspension of the applicant was withdrawn on April 2, 2008. So, the applicant is entitled to get notional benefit of promotional post from the date of promotion of his immediate junior to the next higher post till the date of retirement on January 31, 2011, but the applicant is entitled to get retirement benefits including pension on the basis of notional pay on the date of retirement on January 31, 2011.

ORDER SHEET

Sk. Muktar Ali

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA-397 of 2015**

In view of our above findings, the respondent no. 1, Principal Secretary to the Government of West Bengal, Department of Land & Land Reforms is directed to grant promotion to the applicant to the next higher post with effect from the date when his immediate junior in the service got the said promotion, if the applicant is found to be otherwise eligible for such promotion within a period of 12 (twelve) weeks from the date of communication of the order. The said respondent no. 1 is further directed to ensure fixation of notional pay of the applicant in the promotional post from the date when his immediate junior got the promotion to the next higher post till the date of retirement of the applicant and fix his retirement benefits including pension on the basis of such notional pay on the date of retirement of the applicant within a period of 16 (sixteen) weeks from the date of communication of the order.

With the above direction, the original application stands **disposed of.**

Let a plain copy of the order be supplied to the Departmental Representative of the state respondents for onward communication to the respondent no. 1 within a period of 2 (two) weeks from this date.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib