

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 414 OF 2013

Md. Jamiruddin 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
24 06.03.2019	<p>For the Applicants : Mrs. S. Mitra, Learned Advocate.</p> <p>For the Respondent : 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 Group-C.</p> <p>It appears from the materials on record that the applicant was initially appointed as Night Guard on temporary basis in terms of order dated May 8, 1995 issued by the Director of Social Welfare, Government of West Bengal. Subsequently, the applicant was transferred to the post of Peon under ICDS Project in the district of Murshidabad in terms of order dated February 1, 1996 issued by the Officer on Special Duty & Ex-Officio Director of Social Welfare, West Bengal.</p> <p>The contention of the applicant is that he was senior to the private respondent Pradip Chatterjee who was appointed in Group-D post on June 16, 1995, but the said private respondent was promoted to Group-C post in supersession of the applicant. The grievance of the applicant is that he has not been considered for promotion to Group -C post though he passed Madhyamik Examnation in the year 1998.</p>	

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The issue for consideration of the Tribunal is whether the applicant is entitled to be considered for promotion to Group-C post and whether the applicant was superseded by the private respondent illegally and arbitrarily.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant did not pass Madhyamik Examination when he was appointed in Group-D post under ICDS Project in the district of Murshidabad in terms of order dated February 1, 1996. By filing supplementary application, the applicant has brought on record that he passed Madhyamik Examination for which certificate was issued on December 10, 1998. The gradation list which is annexed to the original application indicates that the private respondent passed Higher Secondary Examination whereas the applicant only appeared in the Madhyamik Examination though the name of the applicant is placed above the rank of the private respondent in the gradation list. There is nothing on record to indicate that the applicant intimated the appointing authority about his passing of Madhyamik Examination in the year 1998. Since the appointing authority was kept in the dark about requisite qualification of passing Madhyamik Examination by the applicant when the private respondent was considered for promotion to Group-C post, we do not find any illegality or arbitrariness in granting promotion to the private respondent from Group-D to Group-C post in supersession of the applicant

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who did not inform the appointing authority of the fact of acquiring eligibility criteria for promotion to Group-C post.

Since the applicant has passed Madhyamik Examination in the year 1998, we are of the view that the applicant has acquired eligibility to be considered for promotion to Group-C post and as such the applicant should be considered for promotion to Group-C post in future when the vacancies in Group-C post will be filled up by way of promotion from Group-D post.

In view of our above observation, we direct the applicant to submit copy of mark sheet and certificate of passing Madhyamik Examination before the appointing authority within a period of 4 (four) weeks from this date. The respondent no. 2, Director of Social Welfare, West Bengal is directed to consider the applicant for promotion from Group-D post to Group-C post, when the vacancies in Group-C post will be filled up by way of promotion from Group-D post, if the applicant is otherwise found suitable to be considered for the said promotion.

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

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

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)