

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 488 OF 2017

Alok Kumar Dandi 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
07 08.08.2018	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p>For the Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p>The applicant has prayed for quashing of Memorandum No. 590-Fish/C-VI/4E-13/2015 dated March 10, 2017 issued by the Assistant Secretary to the Government of West Bengal, Department of Fisheries, Aquaculture, Aquatic Resources & Fishing Harbours and for direction upon the respondents to give promotion to the applicant in the post of Executive Engineer with retrospective effect from the date on which private respondent – Biswanath Khatua assumed the charge of Executive Engineer by way of promotion.</p> <p>The contention of the applicant is that the applicant got promotion to the post of Assistant Engineer retrospectively with effect from the date on which private respondent Ashoke Ghosh joined in the post of Assistant Engineer by way of promotion by virtue of Notification dated July 2, 2015 issued by the Joint Secretary to the Government of West Bengal, Department of Fisheries, Aquaculture, Aquatic Resources & Fishing Harbours and order dated August 24, 2015 issued by the Director of Fisheries, West Bengal on the basis of order passed by this Tribunal in OA-1301 of 2012. The grievance of the applicant is</p>	

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that his case was not considered for promotion to the post of Executive Engineer with effect from the date on which private respondent Biswanath Khatua got promotion to the post of Executive Engineer. It appears from the materials on record that the private respondent Biswanath Khatua was given promotion to the post of Executive Engineer on the basis of merit-cum-seniority on January 25, 2010, which was challenged by the private respondent Ashoke Ghosh before the Tribunal by filing OA No. 172 of 2011. The Tribunal had set aside the order of promotion of the private respondent Biswanath Khatua in the said OA No. 172 of 2011. Accordingly, the private respondent Biswanath Khatua challenged the said order of the Tribunal before the Hon'ble High Court by filing WPST 268 of 2013 which was disposed of on March 20, 2014. The Division Bench of the Hon'ble High Court had set aside the order passed by the Tribunal in OA No. 172 of 2011 and restored the order of promotion of the private respondent Biswanath Khatua in the post of Executive Engineer in the Directorate of Fisheries with effect from the date of promotion on January 25, 2010.

The applicant submitted one representation before the concerned respondent on December 2, 2016 praying for promotion to the post of Executive Engineer under Directorate of Fisheries with effect from the date on which private respondent Biswanath Khatua was given promotion to the said post. The said representation of the applicant was rejected under

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Memorandum dated March 10, 2017 issued by the Assistant Secretary to the Government of West Bengal, Department of Fisheries, Aquaculture, Aquatic Resources & Fishing Harbours.

Now, the applicant has prayed for setting aside Memorandum dated March 10, 2017 by which promotion was given to the private respondent Biswanath Khatua in the post of Executive Engineer under Directorate of Fisheries on the basis of mandate of the Division Bench of the Hon'ble High Court at Calcutta in WPST No. 268 of 2013.

Having heard Learned Counsel representing both parties, we are of the view that the Tribunal cannot interfere in the order of promotion of the private respondent Biswanath Khatua when the order of said promotion was affirmed by the Division Bench of the Hon'ble High Court in WPST 268 of 2013.

In view of our above findings, we cannot persuade ourselves to give any relief to the petitioner in the instant original application. The original application is, thus, **dismissed**.

Let urgent xerox certified copy of the order be supplied to the parties, if applied for, on priority basis after observance of all necessary formalities.

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)