

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

**Present-**

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

**Case No – OA 724 OF 2014**

Paritosh Mallick 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
23 12.09.2019	<p>For the Applicant : Mr. K.H. Dasan, Mrs. M. Chakraborty , 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 benefit of pay scale of Rs.380-910/- in terms of West Bengal Services (Revision of Pay and Allowances) Rules, 1981 (in short, ROPA, 1981) w.e.f. October 21, 1992 and subsequent benefit of scale of pay in terms of the successive ROPA.</p> <p>The applicant joined as Storekeeper in Work Charged Establishment of the respondent no. 7, Executive Engineer, Teesta Resource Division-I under Directorate of Irrigation &amp; Waterways on September 24, 1992. He has been working in the said Work Charged Establishment as Storekeeper, as he has not been absorbed in the regular establishment till date. The contention of the applicant is that many employees working in the Work Charged Establishment have got the benefit of scale of pay in terms of ROPA, 1981 w.e.f. April 1, 1981 on the basis of the order passed by this Tribunal in OA-5351 of 2007 (Kanti Ranjan Das &amp; Others v. The State of West Bengal &amp; Others), but the applicant is deprived of the benefit of pay scale in terms of ROPA, 1981 with effect from the date of his joining on October 21, 1992. The further contention of the applicant is that he is similarly circumstanced with Kanti</p>	

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Ranjan Das who got the benefit of pay scale in terms of ROPA, 1981 on the basis of the order of this Tribunal in OA-5351 of 2007. By citing the analogy of Kanti Ranjan Das & Others, the applicant submitted one representation through proper channel before the respondent no. 7, Executive Engineer, Teesta Resource Division-I on January 14, 2013 and the said representation of the applicant was duly forwarded by the said respondent no. 7 to the Superintending Engineer, Resource Circle, Tinbatti/Siliguri and a copy of the same was forwarded to the respondent no. 5, Director of Personnel and Ex-Officio Chief Engineer, Directorate of Irrigation & Waterways, Government of West Bengal on February 22, 2013, but the said representation is still pending for consideration before the concerned respondents.

Learned Counsel for the applicant submits that the service of the applicant has not been brought into regular establishment though many employees working in the Work Charged Establishment have already been absorbed in the regular establishment of the department. He further submits that some employees working as Storekeeper in the Work Charged Establishment including one Badri Narayan Sinha have got the benefit of pay scale in terms of ROPA, 1981 and in terms of successive ROPA framed by the Government of West Bengal from time to time on the basis of the order passed by the Hon'ble High Court in CR No. 3389 (W) of 1982 and in terms of order passed by the Division Bench of the Hon'ble High Court in FMAT 2924 of 1987. The gist of submission of Learned Counsel for the applicant

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is that the applicant should be given the benefit of pay scale in terms of ROPA, 1981 and successive ROPA framed by the Government of West Bengal from time to time, even when the applicant is not absorbed in the regular establishment, as it has been done in case of other employees working in the Work Charged Establishment of the Directorate of Irrigation & Waterways, Government of West Bengal.

Learned Counsel representing the state respondents submits that the applicant could not be absorbed in the regular establishment in terms of Memorandum No. 4026-F dated April 22, 1974 issued by the Finance Department, Government of West Bengal as the said Memorandum has ceased to operate in terms of Memorandum No. 7315-F(P) dated July 20, 2011 issued by the Finance Department, Audit Branch, Government of West Bengal after pronouncement of judgment by the Hon'ble Supreme Court in the case of "State of Karnataka v. Umadevi & Others".

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we are not in a position to decide the entitlement of the applicant to get scale of pay in terms of ROPA, 1981 w.e.f. October 21, 1992 and subsequent financial benefit of scale of pay in terms of successive ROPA framed by the Government of West Bengal from time to time for non-availability of sufficient materials before us. We would like to hold that the respondent no. 5 should consider whether the applicant is similarly circumstanced with the petitioners of OA-5351 of 2007 (Kanti Ranjan Das & Others v. The State of West Bengal &

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Others) for getting the benefit of scale of pay in terms of ROPA, 1981 w.e.f. October 21, 1992 and subsequent corresponding/higher scale of pay in terms of ROPA framed by the Government of West Bengal from time to time. The respondent no. 5 will give the applicant an opportunity of hearing and consult the records for arriving at the decision about entitlement of the applicant to get the scale of pay with effect from the date of joining in service claimed by him in the representation dated January 14, 2013 (Annexure-C to the original application).

In view of our above findings, the respondent no. 5, Director of Personnel and Ex-Officio Chief Engineer, Directorate of Irrigation & Waterways, Government of West Bengal is directed to consider the representation submitted by the applicant on January 14, 2013 being forwarded to the respondent no. 5 by the respondent no. 7 on February 22, 2013 for deciding the entitlement of the applicant to get scale of pay in terms of ROPA, 1981 w.e.f. October 21, 1992 and subsequent benefit of scale of pay in terms of ROPA framed by the Government of West Bengal from time to time on verification of records and after giving the applicant an opportunity of hearing by passing a reasoned order within a period of 12 (twelve) weeks from the date of communication of the order.

With the above direction, the original application is **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)

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