

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 938 OF 2014

Samir Ranjan Lala 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
20 22.01.2019	<p>For the Applicant : Mr. A.K. Das Sinha, Learned Advocate.</p> <p>For the Respondent : Mr. M.N. Roy, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents to consider the applicant for promotion to the post of Deputy Superintendent of Police, subject to the final decision of the disciplinary proceeding initiated against the applicant in the month of September 2012 and other ancillary reliefs.</p> <p>The contention of the applicant is that he was appointed as Sub-Inspector of Police in the year 2003 and got promotion to the post of Inspector in the month of November 2007. The vigilance enquiry was initiated against the applicant for acquiring assets disproportionate to his known source of income and ultimately departmental enquiry was initiated against the applicant by issuance of charge memo. The applicant initially moved before this Tribunal ventilating his grievance against issuance of charge memo and ultimately, the applicant moved the Hon'ble High Court challenging the order of the Tribunal by filing WPST No. 6 of 2015, which is still pending for adjudication before the Hon'ble High Court. The reply given by the state</p>	

ORDER SHEET

Samir Ranjan Lala

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No. **OA 938 OF 2014**

respondents indicates that the Hon'ble High Court has passed an interim order in the said writ petition (WPST No. 6 of 2015) on January 20, 2015 to the effect that the state respondents will be at liberty to proceed with the disciplinary proceeding and may pass final order, but the same should not be given effect without obtaining specific leave of the Court. The grievance of the applicant is that he should have been considered for promotion in the year 2006 when the charge memo was not issued against the applicant.

With the above factual matrix, Mr. Das Sinha, Learned Counsel for the applicant, has referred to memorandum dated June 12, 1980 issued by the Chief Secretary to the Government of West Bengal and submitted that the applicant should be considered for promotion as the disciplinary proceeding initiated against the applicant is pending for final decision for more than three years. On consideration of paragraph 2 (ii) of the said memorandum dated June 12, 1980, we find that the applicant will not get the benefit of consideration for promotion due to pendency of the disciplinary proceeding for more than three years, if the delay in disposal of the disciplinary proceeding is the result of any proceeding pending in a court of law at the instance of the applicant. In the instant case, the applicant initially moved the Tribunal praying for intervention of the Tribunal in the disciplinary proceeding and ultimately, the applicant moved the Hon'ble High Court by filing WPST No. 6 of 2015, which is still pending for adjudication before the Hon'ble

ORDER SHEET

Samir Ranjan Lala

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 938 OF 2014**

High Court. Since the applicant started a proceeding in a court of law in connection with his disciplinary proceeding initiated by the disciplinary authority for acquiring disproportionate assets, we are of the view that the applicant is not entitled to get the benefit of memorandum dated June 12, 1980 as contended on behalf of the applicant.

The admitted position is that the disciplinary proceeding is now pending against the applicant and WPST No. 6 of 2015 started at the instance of the present applicant is pending for hearing before the Hon'ble High Court. With the above background, we find that the state respondents moved the case of the applicant for promotion to the rank of Deputy Superintendent of Police before the Public Service Commission, West Bengal in the year 2015 and again in the year 2016, but the Public Service Commission, West Bengal did not recommend the name of the applicant for promotion to the rank of Deputy Superintendent of Police initially on March 26, 2015 and thereafter on September 20, 2016. So, the plea of the applicant that the case of the applicant has not been taken up for consideration of promotion due to pendency of the disciplinary proceeding is also not tenable. The applicant is, thus, not entitled to get the relief as prayed in the original application. The original application is **dismissed** without cost.

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

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