

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 993 OF 2016**

Shri Chitta Ranjan Ghorai 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
12 01.08.2019	<p>For the Applicant : Mr. G.P. Banerjee, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondent : Mr. A.L. Basu, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant has prayed for direction upon the respondents for granting him benefit of promotion to the post of Deputy Inspector General (in short, DIG) of Correctional Services w.e.f. March 19, 2013 after setting aside the order dated October 26, 2016 issued by the Deputy Secretary to the Government of West Bengal, Department of Correctional Administration, by which prayer of the applicant for giving benefit of promotional post was turned down.</p> <p>The applicant joined as Deputy Jailor in the year 1979 as a general category candidate. He got promotion to the post of Superintendent, Central Correctional Home on August 30, 2010. He retired from service on March 31, 2015. The contention of the applicant is that the private respondent Smt. Reba Mandi Saren, who was junior to him in the gradation list of Superintendent, Central Correctional Home, was granted promotion to the post of DIG of Correctional Services without</p>	

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considering the applicant for granting promotion to the said post. The representation submitted by the applicant for granting him promotion to the post of DIG of Correctional Services after setting aside the order of granting promotion to the private respondent was turned down by the Department of Correctional Administration, Government of West Bengal under letter dated October 26, 2016 (Annexure-G to the supplementary application filed by the applicant).

With the above factual matrix, Mr. G.P. Banerjee, Learned Counsel for the applicant, contends that 24th position of 50 point roster for grant of promotion to the post of DIG of Correctional Services was reserved for Scheduled Tribe candidate, but one Bimalendu Mukherjee belonging to general category was granted promotion to the post of DIG of Correctional Services. According to Mr. Banerjee, the reserved vacancy of 24th position of 50 point roster should have been carried forward to the next reserved vacancy of the said roster, and 25th position of the roster should have been filled up by general category candidate and as such, grant of promotion of the private respondent belonging to Scheduled Tribe to the post of DIG of Correctional Services and placing her in 25th position of the roster is illegal and not justified under the law. Mr. Banerjee further submits that the incumbent who was granted promotion to the post of DIG of Correctional Services in 24th position of the roster retired within one month after promotion

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and as such, one candidate from general category should have been granted promotion to the post of DIG and placed in 24th position of the roster.

Per contra, Mr. A.L. Basu, Learned Counsel representing the state respondents, has referred to supplementary reply of the state respondents and submitted that the applicant was not in the zone of consideration when 24th vacancy of 50 point roster was filled up. He further submits that no candidate in the feeder post was eligible for promotion to the post of DIG of Correctional Services when process was initiated to fill up 24th position of the roster on August 26, 2010 except one Bimalendu Mukherjee who was considered as eligible candidate for promotion to the post of DIG of Correctional Services and as such his name was recommended by the Public Service Commission, West Bengal (in short, PSC, WB) for such promotion. Mr. Basu further contends that 24th position of 50 point roster reserved for Scheduled Tribe candidate was carried forward to 25th position of the roster due to non-availability of any suitable candidate belonging to the category of Scheduled Tribe. He further submits that when the process was initiated for filling up the vacancy of 25th position of the roster and 26th position of roster on October 24, 2011, the private respondent being the only suitable candidate belonging to the category of Scheduled Tribe was granted promotion and placed in the 25th position of roster

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(which was carried forward from 24th position and reserved for Scheduled Tribe candidate) and the other candidate belonging to general category who got promotion and placed in 26th position of the roster was senior to the applicant in the gradation list of the feeder post. Mr. Basu has pointed out from the said supplementary reply of the state respondents that the applicant was considered for promotion to the post of DIG of Correctional Services when 27th position and 28th position of the roster were filled up. However, the applicant was not found suitable for promotion to the post of DIG of Correctional Services. The candidate belonging to the general category who got promotion to the post of DIG of Correctional Services and placed in the 27th position of the roster is senior to the applicant and the other candidates who got promotion to the post of DIG of Correctional Services and placed in the 28th position of the roster was junior to the applicant, but he belonged to the category of Scheduled Caste. Mr. Basu has further pointed out from the supplementary reply that the process for filling up 29th position of the roster arose after retirement of the applicant from service and as such the applicant was not deprived of promotion in an unjustified manner.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the process for filling up vacancy in the 24th position of the roster was started on August 26, 2010, when the applicant did not join

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the feeder post of Superintendent, Central Correctional Home. On an analysis of the Bio-Data of the candidates in the zone of consideration for promotion to the post of DIG of Correctional Services for the purpose of filling up 24th position of the roster, we find that only Bimalendu Mukherjee was eligible for grant of promotion to the post of DIG of Correctional Services on August 26, 2010. Since 24th position of the roster was reserved for Scheduled Tribe candidate and since no Scheduled Tribe candidate was found in the zone of consideration for promotion to the post of DIG of Correctional Services, the reserved vacancy of 24th position was carried forward to 25th position of the roster in terms of Rule 10 (C) of West Bengal Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Rules, 1976 (in short, the Reservation Rules, 1976). The carry forward of the reserved vacancy will continue till the next reserved vacancy occurs in the 50 point roster in terms of the said Rule 10 (C) of the Reservation Rules, 1976. We are unable to accept the contention made by Mr. Banerjee that 25th vacancy of the 50 point roster should have been treated as unreserved and suitable candidate belonging to the general category should have been accommodated in the said position of the roster. As a result, 24th position of the roster was filled up by one Bimalendu Mukherjee, who was the only candidate belonging to general category and eligible for promotion to the post of DIG of Correction Services.

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	<p>It appears from the materials on record that 25th position of the roster and 26th position of the roster were filled up by consideration of all eligible candidates for promotion to the post of DIG of Correctional Services and the process of this promotion was initiated on September 11, 2012. The private respondent being the suitable candidate belonging to Scheduled Tribe category was granted promotion to the post of DIG of Correctional Services and placed in 25th position of the roster which was treated as reserved for Scheduled Tribe (after being carried forward from 24th position of the roster). The other candidate (Sudipta Chakraborty) who got promotion to the post of DIG of Correctional Services and placed in 26th position of the roster belonged to general category and senior to the applicant in the feeder post. The applicant was duly considered for promotion to the post of DIG of Correctional Services along with other eligible candidates when 27th position and 28th position of roster were filled up. The process for filling up the vacancy in this regard was started on March 24, 2014 and one Biplab Das belonging to general category who got promotion to the post of DIG of Correctional Services and placed in 27th position was senior to the applicant. The other candidate (Khagendra Nath Bir) who got promotion to the post of DIG of Correctional Services and placed in 28th position of the roster, was junior to the applicant in the feeder post, but he belonged to Scheduled Caste category and 28th position of the roster was reserved for Scheduled Caste candidate. The next process for filling up</p>	
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vacancy of DIG of Correctional Services was started after retirement of the applicant from service as the said vacancy occurred on December 1, 2015 and the applicant retired from service on March 31, 2015.

In view of our above observation, we cannot persuade ourselves to hold that the grant of promotion to the private respondent to the post of DIG of Correctional Services is not justified under the law. The logical inference of our above findings is that the applicant was not denied promotion in an unjustified or illegal manner. As a result, the original application is **dismissed**.

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

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib