

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Officiating Chairperson & Member (J)

Case No. – CCP 6 of 2022 [OA 87 of 2016]

*Nemai Chandra Saha* -- **VERSUS** – Dr. Manoj Pant, Pr. Secy., Deptt. of Finance.

Serial No. and Date of order	For the Applicant	: Mrs. S. Mitra, Ld. Adv.
	For the Contemnor/OP	: Mr. S.K. Mondal, Ld. Adv.

05  
07.11.2022

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26<sup>th</sup> August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

During the course of the hearing, the counsel for the applicant has drawn my attention to the initial order dated 27.11.2013 passed in OA-879 of 2011, whereby the Respondent No. 2 i.e. the Principal Secretary, Department of Finance, Government of West Bengal was directed by the following order :

**“We accordingly set aside this part of the decision of the Finance Department and we dispose of the application by directing the respondent No. 1 to send all relevant papers along with his definite recommendation to Respondent No. 2 within 2 (two) months from the date of communication of the judgment and the Respondent No. 2 shall take a decision in accordance with law, based on the appropriate gradation list, within 3 (three) months thereafter and the said decision shall be communicated to the petitioner and also Respondent No. 5 for further action regarding revision of retirement benefit, if necessary, in terms of the order dated 15.06.2010 of the Tribunal in OA-730 of 2009.”**

As the aforesaid order was not implemented by the authority, the applicant again approached this Tribunal in OA-87 of 2016, which was disposed of vide order dated 10.02.2021 with following direction :

**“In view of the above, respondent no. 2 is directed to take appropriate steps for implementation of the order dated 27.11.2013 as directed by this Tribunal in OA-879 of 2011 within a period within a period of 3 (three) months from the date of receipt of the order by way of a reasoned and speaking order and to communicate the same. The concerned Department is directed to take follow up action as per decision of the Finance Department. The entire process should be completed within a period of 4 (four) months from the date of receipt of the order.”**

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Subsequently, the Principal Secretary, Department of Finance, Government of West Bengal has communicated the reasoned order dated 03.12.2021 rejecting as follows :

**“..... 6) The petitioner cited the instance of Shri Matai Singh Tamang as his inter-se junior and sought for pay protection. Shri Tamang superannuated from service on 30.10.2001. However, he was not impleaded in the list of private respondents with reference to whom the petitioner sought pay protection before the Hon’ble High Court and, therefore, his present claim has no bearing on the order of the Hon’ble High Court in CO No. 16510 (W) of 1984.**

**7) NISG benefit was introduced in 1974 and subsequently it was withdrawn after introduction of ROPA Rules, 1981. NISG benefit was extended to top 10% (15%) of a particular cadre. In 1974 Shri Tamang was posted in West Dinajpore District whereas the petitioner was under the administrative control of S.P., Malda during that relevant point of time and hence belonged to under two different establishments. Therefore, the two cases are not comparable.**

**8) No document has been produced before me wherefrom it can be ascertained that the petitioner Sri Nemai Chandra Saha is senior than Sri Matai Singh Tamang.**

**In view of the facts stated above, I am of the opinion that the demand of the petitioner has no merit and does not bear any adequate justification. Hence his prayer is hereby rejected.”**

From the above, it is noted that the Finance Department has not considered the case of the applicant on the basis of the appropriate gradation list as observed by the Tribunal in OA-879 of 2011.

Admit.

The Registry is directed to issue notices.

The applicant is directed to file requisites before the Registry.

The matter is returnable on **20.12.2022** under the heading **“For Orders”**.

CSM/SS

**URMITA DATTA (SEN)**  
**Officiating Chairperson & Member (J)**