

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. – MA 43 of 2022 [OA 200 of 2021]

The State of West Bengal & Others. -- VERSUS – Subrata Kumar Sen

Serial No. and Date of order	For the Applicants	: Mr. S. Ghosh, Ld. Advocate.
	For the State Respondent	: Mr. M.N. Roy, Mr. G. Halder, Ld. Advocates.
<u>04</u> 14.09.2022		

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

The instant Miscellaneous Application has been filed praying for following reliefs :

“(a) A mandatory order directing the respondents to release Modified Career Advancement benefit of the applicant on completion of 25 years service with effect from 01.07.2019 with interest at the rate of 10% per annum and also to release the dues of the applicant from the month of July, 2019 with all other consequential benefit and 10% interest thereon considering the recommended Memo. No.351-SE/AN/9A-1P-2-19 (Pt-SKS) issued by the 11.03.2020 and also considering the representation dated 21.01.2021 and to act in accordance with law.

(b) An order directing the respondents to cancel, rescind and/or withdraw the impugned appointment order of the applicant issued by the Commissioner of School Education, West Bengal vide Memo No. 1164 ES/ Admn dated 02.09.2019 appointing the applicant from District Inspector of Schools (SE) Hooghly to the post of Additional District Inspector of Schools (PE) Purba Medinipur and to restore the earlier posting of the applicant as District Inspector of Schools (SE) in the sense of social and administrative dignity.

(c) An order directing the respondents to certify and transmit the records of this case to their Hon'ble Tribunal so that on perusal conscionable justice may be administered by quashing adverse report if there be any.

(d) Pass such other or further order or orders, as to this Hon'ble Tribunal may seem fit and proper.”

As per the applicant, the applicant had filed one OA-200 of 2021,

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wherein he had prayed for the following reliefs :

“(a) A mandatory order directing the respondents to release Modified Career Advancement benefit of the applicant on completion of 25 years service with effect from 01.07.2019 with interest at the rate of 10% per annum and also to release the dues of the applicant from the month of July,2019 with all other consequential benefit and 10% interest thereon considering the recommended Memo.No. 351-SE/AN/9A-1P-2019 (Pt-SKS) issued by the 11.03.2020 and also considering the representation dated 21.01.2021 and to act in accordance with law.

(b) An order directing the respondents to cancel, rescind and/or withdraw the impugned appointment order of the applicant issued by the Joint Secretary, School Education Department, Govt. of West Bengal vide Memo. No. 1164ES/Admn/6T-02/2018 dated 02.09.2019 appointing the applicant from District Inspector of Schools (SE) Hooghly to the post of Additional District Inspector of Schools (PE) Purba Medinipur and to restore the earlier posting of the applicant as District Inspector of Schools (SE) in the sense of social and administrative dignity.

(b) An order directing the respondents to certify and transmit the records of this case to their Hon'ble Tribunal so that on perusal conscionable justice may be administered by quashing adverse report if there be any.

(c) Pass such other or further order or orders as to this Hon'ble Tribunal may seem fit and proper.”

The said OA was disposed of vide order dated 20.12.2021 with the following direction :

“Since admittedly, the benefit of 25 years of service for Career Advancement Scheme accrued to the applicant on 10th April, 2019 and the applicant had opted for the same on 1st July, 2019 which was forwarded by the department on 11th March, 2020, as evident from page 24 of the original application, when there was no departmental proceeding, the applicant is entitled to the reliefs as prayed for in prayer 10 (a) of the application. Let there be an order in terms of prayer 10 (a) of the application to be granted by the Principal Secretary, Department of School Education, respondent no. 1, within fifteen weeks from the date of communication of this order downloaded from the website of the Tribunal. The application is allowed.”

As per the applicant, in the instant application, owing to the pendency of the aforesaid Original Application before this Tribunal since 2021 till the disposal of the same on 20.12.2021, no delay can be attributed to the State respondents and as such interest @10% per annum should be waived and/or modified. Therefore, they have prayed for modification of the order dated 20.12.2021. The counsel for the respondents/applicants has vehemently

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objected and has submitted that the instant MA is not maintainable.

I have heard the parties and perused the records. It is noted that the erstwhile Bench after hearing the Original Application had allowed the prayer 10 (a) which includes the interest part also. However, as after dismissal of any application the Court has functuous officio even by way of Miscellaneous Application, no modification of order can be done. Accordingly, the MA is **dismissed** with the above observations.

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

CSM/SS