

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. – OA - 411 of 2022

PRADIP KUMAR SAHA - Vs - The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	:	Mrs. S. Das, Advocate
	For the State Respondents	:	Mrs. Saswati Bandyopadhyay, Advocate
<u>12</u> 13.12.2024	For the Public Service Commission, West Bengal	:	Mr. Saurav Bhattacharjee, Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No.638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

The prayer in this application is for directing the respondent authorities to elevate the applicant to the post of Chief Engineer and subsequently Engineer-in-Chief by way of promotion with effect from 25.05.2017.

It appears from the submissions of learned counsels and records that the applicant was not considered for the post of Chief Engineer due to adverse ACRs for the previous five (05) years. The Department, by an order dated 29.06.2017, filled up the four (04) posts of Chief Engineer and the candidature of the applicant was not considered. Again, when these posts became vacant in 2022, the Department filled up the posts by other candidates on 07.05.2022. Again, the candidature of the applicant was not considered due to unsatisfactory evaluation reports of his ACRs for consecutive five years.

The main grievance of the applicant, as he has narrated in the application and similar submission made by his Counsel, is that he was sufficiently senior enough as per the gradation list to be selected to the post of Chief Engineer, but his candidature was ignored and that juniors to him were promoted to the post of Chief Engineer in violation of the recruitment and seniority rules. The notification No.1815 dated 25.05.2017 ignored his name for the post of Chief Engineer. Since the promotion to such post of Chief Engineer has already been made, the applicant has prayed for at least notional benefits of such post and refix his pay and perks accordingly.

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The respondent authorities have responded to the statements made by the applicant, through the submissions of the learned counsel and the reply filed. It is understood from the response of the respondent authority that a departmental proceeding was initiated against the applicant and a penalty of "CENSURE" was imposed upon him by an order No.153 E dated 16.03.2022. It has also been submitted that as per the Recruitment Rules, besides other eligibility criteria, a satisfactory evaluation of the past consecutive five years of SARs / ACRs are essential. The applicant, though within the zone of consideration for the post of Chief Engineer since 2017, could not be promoted to such post due to unsatisfactory evaluation reports on the basis of SARs/ACRs during the last five years. Thus, his SARs / ACRs not being satisfactory during the past five years of evaluation, his promotion to the post of Chief Engineer could not be approved.

The Tribunal has observed that the primary ground of non-consideration of promotion to the post of Chief Engineer to the applicant being unsatisfactory evaluation of the past five years SARs/ACRs is not in dispute. In fact, the applicant has not contested the seemingly adverse notings in his ACRs. The applicant has also neither agitated that he was not given any opportunity to respond to such adverse entries in the ACRs. The only grievance appears to be that, though he was Superintending Engineer and within the zone of consideration for the post of Chief Engineer since 2017, but the authorities ignored him for such promotion. It is a well accepted administrative norm that the past record of an employee constitutes a very significant factor while considering him for any promotion. The authority has the legitimacy to decide to withhold any promotion if they are not satisfied with his past performance as manifest in the entries recorded in the SARs / ACRs. Even a single adverse remark is likely to jeopardise the opportunity for such promotion. Therefore, this Tribunal is of the opinion that the respondent authorities had taken a valid and correct decision while withholding his promotion to the post of Chief Engineer. The Tribunal cannot examine and judge on the correctness of any adverse remark so noted in his SARs / ACRs.

Thus, the application being devoid of any merit is disposed of without any directions.

SCN.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)