

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 492 OF 2023

Md. Nazimul Islam Mollah & Ors. – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	:	Mr. M. N. Roy, Mr. Gaurav Halder, Advocates
<u>3</u> 31.01.2024	For the State Respondents	:	Mr. Saurav Bhattacharjee, Advocate
	For the Private Respondent Nos.14,19,21,27,32,40,42,45,50,51,52,54,56, 57,67,70,71,72, 79, 84,88,91,94,107,110,111, 112, 116,117,118,120,121,131,136,147,157,	:	Mr. G.P. Banerjee, Advocate
	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.

On consent of the learned counsels for the parties, the case is taken up for consideration sitting singly.

By filing this application, the applicants had prayed for setting aside the entire gradation list of officers belonging to the cadre of Joint Block Development Officers published by the respondent department on 15.05.2023. In brief, the allegation of the applicants is that they, despite being senior and direct appointees, these have been placed below the promotees who were promoted from the feeder post. From the submissions and perusal of the records, the following observations are noted:

- i) The seniority of the officers featuring from serial No. 1 to 76 have not been disputed for the fact that they are seniors to the applicants.
- ii) The private respondents featuring from serial No.77 to 238 have been promoted to the post of Joint B.D.O. from different feeder posts.

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- iii) The names of the 14 applicants feature from serial No.239 to 256.
- iv) The seniority of officers from 257 to 538 are not in dispute as they are juniors to the applicants.

If the arguments of the applicants are valid, their seniority should have been considered from serial No. 77 to 90 of the gradation list instead of 239 to 256. Before publication of this final gradation list, a draft gradation list was circulated and objections, if any, from all concerned were invited. The applicants had submitted their objections to the draft gradation list.

Submitting arguments on behalf of the applicants, Mr. M.N. Ray, learned counsel expresses the following points:

1. Being successful in the W.B.C.S. (Executive) Examination, 2013, the applicants were recommended by the Public Service Commission for holding the post of Joint Block Development Officers (Group 'C') by its notification No.222 dated 3rd July, 2015.
2. In terms of such recommendation, the Panchayats and Rural Development Department by a memo No.4541 dated 23rd September, 2015 offered the applicants the post of Joint Block Development Officer. After completion of their respective medical and P.V.Rs., the actual appointment letters were issued to them on 29.02.2016. Since the newly appointed officers were required to undergo a training, they joined the training institute.

Now, the primary argument of the applicants is that, in the final Gradation List, despite being direct appointees they have been relegated to a lower position, lower to the officers who were promoted from various feeder posts. Mr. Ray expresses his surprise that in the case of these promotee officers, the P.S.C. recommended their names on 3rd March, 2016 and on the same date the Department issued their promotion order for the post of Joint B.D.O. Summing up his argument today, Mr. Ray expresses that, being prejudiced against the interest of the applicants, the respondent authorities unnecessarily delayed the issue of actual appointment letters to the applicants. To prove this point Mr. Ray again refers to the promotion orders issued on 03.03.2016 of

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the promotee officers whose names were recommended for promotion to the post of Joint B.D.O. by the Commission only on the same date. Whereas, in the case of the applicants, the Commission recommended their names on 3rd July, 2015, but the actual appointment letters were issued to them only on 29.02.2016. He refers to the recommendation of the P.S.C. for the applicants to the post of Joint B.D.O. which was issued by the Commission on 03.07.2015. On the other hand, such recommendation in case of the promoted officers, were issued by the Commission much later on 03.03.2016. Therefore, in terms of dates of such recommendation by the Commission, the respondent should have been offered and appointed the applicants earlier than 29.02.2016.

Let submission on behalf of the respondent authorities be heard on 12.03.2024 at 2:30 PM.

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

SCN.

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