

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 111 OF 2020

EKRAMUL HAQUE & OTHERS - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	:	Mr. A. R. Mukherjee, Mrs. S. Agarwal, Advocates
<u>24</u> 14.11.2024	For the State Respondents	:	None
	For the Respondent No.7 (Finance Department)	:	Mr. G.P. Banerjee, Advocate
	For the Principal Accountant General (A&E), West Bengal	:	Mr. Biswanath Mitra, Departmental Representative

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.

In today's hearing, Mr. A.R. Mukherjee, learned counsel, appearing on behalf of the applicants, made the following statements.

By notification dated 19th November, 1974, the State decided that all the Operator-cum-Mechanics (OCMs) will be termed as Sub-Assistant Engineers (SAEs). Despite such order, the same benefits are not extended to these OCMs. The Hon'ble High Court, by a judgement dated 25.03.1991, directed the State to extend the scale of Sub-Assistant Engineers to the applicants. Only on the basis of filing a contempt application before the Hon'ble High Court, the respondent authorities finally sanctioned and released such benefits to the applicants. In short, the applicant's grievance is that despite being termed as S.A.Es. and pay benefit of S.A.Es. given during the service time, but the authorities failed to extend the benefit of CAS / MCAS to the applicants. In response to the representation filed by the applicants, the respondent authority considered their prayer, but regretted from giving the benefit of 20 years under CAS '90 or 16 years and 25 years benefit under MCAS 2001. This impugned order No.2167 dated 27.06.2018, rejecting the

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prayer for CAS/MCAS is being assailed before this Tribunal in this application.

Mr. Mukherjee has three points of submissions against this impugned order:

- i) Applicants have been enjoying scale No. 12 pursuant to the High Court's order, which has become their initial scale of pay since being termed as Sub-Assistant Engineers. Therefore, the old scale of OCMs could not be considered and the prayer for CAS/MCAS rejected.
- ii) Since the applicants' entry level pay scale was scale No.12 and remained so till their date of superannuation, therefore, the applicants were entitled to receive CAS/MCAS benefits.
- iii) Relying on a judgement dated 21.08.2015 passed in WPST 167 of 2012, Mr. Mukherjee further submits that the post of Sub-Assistant Engineer is not a promotional post, but a directly recruited post. Therefore, the applicants being termed as Sub-Assistant Engineers, ought to have been considered as directly recruited to that post of S.A.E. Further, submission is that till their retirement as SAEs, they never benefitted from any promotions. In view of the above facts, the applicants were eligible to receive the CAS / MCAS benefits.

Let a copy of judgement, dated 21.08.2015 passed in WPST 167 of 2012, filed by Mr. Mukherjee, be kept on record.

Let the matter appear under the heading "Hearing" on 12.03.2025.

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

SCN.