

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Mr. Sayeed Ahmed Baba, Member (Admn.)

Case No. –OA 1231 of 2014

Surajit Pati - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. A. Maiti, Advocate.
<u>23</u> 13.06.2022	For the State Respondent	: Mrs. S. Agarwal, Advocate.

The matter came up as “To Be Mentioned” before the Single Bench today and a direction was issued by an order for placing the matter before the 1st Division Bench having jurisdiction under the heading “For Orders.” Accordingly, the Registry was directed to publish a supplementary cause list today.

The Registry has published a supplementary cause list and the matter is appearing before the Division Bench under the heading “To Be Mentioned.” Let a copy of the supplementary cause list be kept on record.

Though it is appearing under the heading “To Be Mentioned”, it is submitted by Mr. A. Maiti, learned advocate for the applicant that the matter may be taken up for hearing to which Mrs. S. Agarwal, learned advocate for the State respondents, in her usual fairness, does not oppose.

In this application, Surajit Pati, the applicant working at present as Junior Lecturer at Calcutta Technical School has prayed for certain reliefs, the relevant portion of which is as under :

“a. An order by declaring that the respondents are bound to promote your applicant to the post of lecturer in terms of the then existing recruitment rules and the subsequent amendments which was notified on April 8, 2009.

b. A direction directing the respondents to promote your applicant to the post of lecturer and issue letter appointment in favour of the applicant in the said promotion post of lecturer with effect from July 27, 2013 i.e. the date when your applicant improved his qualification for the post of lecturer.

Form No.

Case No. **OA 1231 of 2014**

Vs.

THE STATE OF WEST BENGAL & ORS.

c. An order by declaring that the recruitment rules regulating the recruitment to the posts of Lecturer in Engineering or Non-Engineering or Technology in Government Polytechnics in West Bengal General Service under the Department of Technical Education and Training Government of West Bengal Rules 2012 is ultravires to the constitution of India to the extent it takes away the accrued right of the applicant.

d. In alternative an order by declaring that the recruitment rules regulating the recruitment to the posts of Lecturer in Engineering or Non-Engineering or Technology in Government Polytechnics in West Bengal General Service under the Department of Technical Education and Training Government of West Bengal Rules 2012 has no manner of application in respect of the vacancies which were existed before the said rules came in to force.

e. A direction directing the respondent to forthwith cancel / quash and/or revoke the decision dated April 17, 2012 as in annexure V above.

f. A direction directing the respondent to forthwith cancel / quash and/or revoke the advertisement No. 14/2014 issued by the Public Service Commission.”

It is submitted by Mr. A. Maiti, learned advocate for the applicant that by the judgment of the Hon’ble High Court on 20th July, 2018 passed in FMA 2801 of 2016 with CAN 723 of 2018, the Director, Directorate of Technical Education and Training, Government of West Bengal v. Tarun Kumar Khanra & Ors., the issues raised by the applicant have been upheld. The appeal filed before the Hon’ble Supreme Court, being special leave to appeal nos. 14606-14607 of 2019, was dismissed on 19th April, 2022. Submission is, in view of the judgment passed by the Hon’ble High Court and the order passed by the Hon’ble Supreme Court, appropriate order may be passed in favour of the applicant.

Mrs. S. Agarwal, learned advocate for the State respondents submits

Form No.

Case No. **OA 1231 of 2014**

Vs.

THE STATE OF WEST BENGAL & ORS.

that the matter is covered by the said judgment and order passed by the Hon'ble High Court and the Hon'ble Supreme Court.

In order to decide the issue, it is relevant to refer to paragraph 26 (a) and (e) of the judgment in FMA 2801 of 2016 with CAN 723 of 2018, which is as under :

“a. The order impugned is confirmed on the question of law that all junior lecturers whether called “Demonstrators” or otherwise, who were in service as on April 8, 2009, in all polytechnics, engineering colleges and institutions in West Bengal, whether Government, Government sponsored, non-Government and private, by virtue of the transitory provisions notified by the notification date April 8, 2009, are entitled to be upgraded / promoted as Lecturers provided that they had the requisite minimum qualification of either a degree or diploma in the requisite subject (engineering or science as the case may be) in terms of the recruitment rules till March 2009 or if they improved their qualifications within 5 years from April 8, 2009.

e. The benefits of the order impugned in the appeal shall be available to all persons who were similarly situated as the writ petitioners 2 to 6, but where the persons has the status of a Government servant, even as a special measure, the grant of such benefit shall be enforceable before the West Bengal State Administrative Tribunal, in case the Government polytechnic refuses to upgrade his services and the writ petitioner no.1 shall have the right to apply to the appropriate authority of the State of West Bengal for such upgradation on the basis of this order and in case of any refusal, shall have the right to approach the said Administrative Tribunal. This direction is passed in terms of the amended provisions of Rule 53 of the Rules of this Court relating to applications under Article 226 of the Constitution of India for the ends of justice.”

Form No.

Case No. **OA 1231 of 2014**

Vs.

THE STATE OF WEST BENGAL & ORS.

It is pertinent to mention that the applicant had acquired the Bachelors Degree in Electrical Engineering from the West Bengal University of Technology on 31st July, 2013 as evident from page 52 of the Original Application. Hence, in view of the judgment passed by the Hon'ble High Court, let there be an order directing the Director of Technical Education and Training, Government of West Bengal, Calcutta, the Respondent no. 2 to promote the applicant to the post of Lecturer and to issue letter of appointment in favour of the applicant in the said promotional post of Lecturer with effect from 27th July, 2013, that is the date when the applicant improved his qualification for the post of Lecturer, within a period of eight weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal.

The application is disposed of.

(SAYEED AHMED BABA)
Member (A)

(SOUMITRA PAL)
CHAIRMAN

HS