

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Sayeed Ahmed Baba, Administrative Member

Case No. - OA 178 OF 2021

BIKASH KUMAR SARKAR - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and For the Applicant

Date of order

05

18.01.2022

: Mr. Uday Sankar Chattopadhyay,

Mr. Santanu Maji,

Mrs. Snigdha Saha,

Mr. Pronay Basak,

Advocates

For the Respondents

: Mr. S. Bhattacharya,

Advocate

For the Private Respondent

: Mr. P. Debnath,

Advocate

In this application, the applicant, Bikash Kumar Sarkar, - an Executive Engineer, Panchayat and Rural Development Department, Government of West Bengal, attached to Purba Bardhaman Zilla Parishad, - has prayed for several reliefs, the relevant portion of which is as under:

- “a. Pass an Appropriate Order or direction commanding the Respondents authorities specifically the Respondent No.2 and each of them and/or their competent authorities to forthwith promote the applicant to the post of Superintending Engineer given the fact that he is the seniormost Executive Engineer as per the gradation list as in annexure P/1 and if necessary cancel/rescind/revoke the notification being No.3722-RD/013E-22/2010 dated 28th May 2019 whereby Dhrubajyoti Majumder has been promoted to the post of Superintending

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Engineer.

- b. Pass an Appropriate Order or direction commanding the Respondents No.2 to forthwith consider the demand justice dated November 21, 2019 of the applicant as in Annexure P/7.”

The matter came up for hearing on 31st March, 2021 when directions were issued to file reply and rejoinder. It is submitted by Mr. Uday Sankar Chattopadhyay, learned advocate for the applicant that though departmental proceeding is pending since 24th July, 2019 and though the department had decided to initiate departmental proceeding against the applicant on 9th May, 2016, however, no promotion has been given to the applicant on the plea that departmental proceeding is pending. It is submitted in view of the memorandum dated 12th June, 1980 provisional promotion be given during the pendency of the departmental proceeding.

Mr. S. Bhattacharjee, learned advocate for the State Respondent submits that since departmental proceedings were initiated pursuant to the memorandum dated 24th July, 2019, as evident from annexure P-6 to the Original Application, no order may be passed. On a query it is submitted that if directed, the respondent authorities are ready to consider the matter for provisional promotion of the applicant in accordance with law if he is otherwise eligible.

Mr. P. Debnath, learned advocate for the added private respondent no.6 submits that his client does not stand in the way if the case of the applicant is considered for provisional promotion.

Having heard the learned advocates for the parties and considering the facts and circumstances of the case, the application is disposed of by directing the Joint Secretary, Panchayat and Rural Development Department, Kolkata, the

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respondent no.2 to dispose of the matter regarding granting provisional promotion to the applicant during the pendency of the departmental proceedings, in the light of the memorandum dated 12th June, 1980, by passing a reasoned order to be communicated to the parties within fifteen weeks from the date of presentation of a copy of this order downloaded from the internet / website of the Tribunal after giving an opportunity of hearing, after verifying the records and after making necessary enquiry.

(SAYEED AHMED BABA)
MEMBER (A)

(SOUMITRA PAL)
CHAIRMAN