

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-**

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

**Case No. – OA 195 of 2024**

**Shubhendu Bhattacharjya -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicant : Mr. M.N. Roy,  
Mr. G. Halder,  
Ld. Advocates.

04  
07.01.2025

For the State Respondents : Mrs. C. Bhattacharjee,  
Ld. Advocate.  
Mr. S. Debray,  
Mr. R. Bag,  
Mrs. A. Bhattacharya,  
Ld. Depttl. Reps.

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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has prayed for a direction to the respondent authorities to restore/refix the inter-se seniority in the gradation list of Special Revenue Officer-II by adding his name above the private respondent no. 7.

From the submissions and the records, it is understood that the applicant was placed at merit list no. 49 whereas the private respondent was at merit list no. 53 in the order no. 5004 dated 10.06.2002. By this order, the Department of Land & Land Reforms had selected 73 candidates for the post of Revenue Officer. It appears that this order not only showed the names of the newly appointed Revenue Officers but also fixed their inter-se seniority. Later on 26.12.2011, the Department published a list of Revenue Officers who were promoted to the post of Special Revenue Officer, Grade-II in which the name of the private respondent appears at serial no. 21. Such list did not include the name of the applicant for this promotional post. The applicant by furnishing his representations before the respondent authorities drew their attention that he had already submitted his Asset Declaration documents as on 01.01.2011 in due time which was forwarded by the Sub-Divisional Land & Land Reforms Officer, Sadar, Malda in his memo 526 dated 08.03.2011. He also pointed out that such documents relating to his Asset Declaration was received by the Department on 10.03.2011. As an abundant

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precaution, the applicant in his letter also informs that copies of his Asset Declarations as on 01.01.2010 and 01.01.2011 are again re-submitted on 28.12.2011 and requests the authorities to consider his name in the promotional list. In the next round of promotion orders, one order no. 2452 dated 20.04.2012 was published by the Department in which the name of the applicant appeared at serial no. 6.

Mr. Roy, learned counsel appearing on behalf of the applicant submits that although the final gradation list as on 01.03.2022 published by the Department in memo no. 658 dated 16.03.2022 the name of the applicant appeared at serial no. 134 but has been placed below the private respondent, Ruma Sarkar, who is at serial no. 102. Mr. Roy emphasises the importance of Rule 4 of the West Bengal Services (Determination of Seniority) Rules, 1981. Submission is that the said Rule 4 is crystal clear in determining inter-se seniority on the basis of the order of merit after their selection on the recommendation of the Public Service Commission, West Bengal. Mr. Roy also draws attention to copies of the representations filed by the applicant expressing his grievance, being senior to the private respondent, he was given a position lower to her.

Mrs. Bhattacharjee, learned counsel appearing on behalf of the State respondents responding to Mr. Roy's submission, however, disagrees and submits that Rule 4 of West Bengal Services (Determination of Seniority) Rules, 1981 as quoted by Mr. Roy is not the applicable rule, instead Rule 5 is the relevant rule to be relied upon. Seniority in the gradation list has been determined on the basis of the promotions in this case.

Mrs. Bhattacharjee has also questioned the maintainability of this application on the ground that this applicant has filed this application wanting to assail the final gradation list published in 2022 and disregarding the fact that such gradation list was finalised also since 2018. So, submission is that this application is barred by limitation for challenging the gradation list published in 2022 and being assailed by this

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application filed before this Tribunal in 2024. Relying on a judgement in the case of "*P S Sadasivaswamy v. State of Tamil Nadu*" reported in (1975) 1 SCC 152 of the Hon'ble Supreme Court, Mrs. Bhattacharjee is also of the opinion that a person aggrieved by an order of promoting a junior over him should approach the Court within six months or at the most a year of such promotion.

Mrs. Bhattacharjee wishes to file a reply. Let such reply be filed and copy be served upon the applicant and let the matter appear under the heading "Hearing" on 06.03.2025.

SAYEED AHMED BABA  
Officiating Chairperson & Member (A)

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