

**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-200 of 2021**

**Subrata Kumar Sen - VERSUS - The State of West Bengal & Others**

Serial No. and Date of order <u>08</u> 20.12.2021	For the Applicant	: Mr. M.N. Roy, Mrs. S. Agarwal, Mr. S. Bhattacharjee, Advocates.
	For the State Respondent	: Mr. S. Ghosh, Advocate.

At the very outset, it is submitted by Mr. M.N. Roy, learned advocate for the applicant that he is not pressing prayer 10 (b) of the application.

In this application, Subrata Kumar Sen, the Additional District Inspector of Schools (Primary), Purba Medinipur, has prayed for certain reliefs, the relevant portion of which is as under :

*“10. (a) A mandatory order directing the respondents to release Modified Career Advancement benefit of the applicant on completion of 25 years service with effect from 01.07.2019 with interest at the rate of 10% per annum and also to release the dues of the applicant from the month of July, 2019 with all other consequential benefit and 10% interest thereon considering the recommended Memo. No. 351-SE/AN/9A-IP-2019 (Pt-SKS) issued by the 11.03.2020 and also considering the representation dated 21.01.2021 and to act in accordance with law.”*

The grievance of the applicant is though option was exercised, he has been denied the benefit of Modified Career Advancement Scheme benefit on completion of 25 years of service on 1<sup>st</sup> July, 2019 on the ground that a departmental proceeding is pending. Relying on the judgment of the Hon'ble Supreme Court in Union of India and Others vs. Anil Kumar Sarkar : (2013) 4 SCC 161, particularly paragraphs 4 to 6 and paragraphs 21 to 23 thereof, it is submitted since charge sheet was issued on 30<sup>th</sup> September, 2021 which has been annexed to the reply filed by the State respondents, the applicant is entitled to the reliefs as prayed for since the benefit accrued to him on 10<sup>th</sup> April, 2019 for which the applicant had opted on 1<sup>st</sup> July, 2019.

Mr. S. Ghosh, learned advocate for the State respondents, submits since after internal enquiry departmental proceeding have been initiated on 30<sup>th</sup>

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September, 2021 and as the department has lost confidence on the applicant, no order may be passed.

Heard learned advocates for the parties. There is no dispute that the applicant had completed 25 years of service on 10<sup>th</sup> April, 2019 and had opted for Career Advancement Scheme on 1<sup>st</sup> July, 2019. The departmental proceedings, as evident from the annexure to the reply filed by the State respondents indicate it was initiated by filing of charge sheet on 30<sup>th</sup> September, 2021. The judgement in Union of India vs. Anil Kumar Sarkar (Supra) is applicable to the case of the applicant as therein the Hon'ble Supreme Court had noted that the batchmates of the respondents by office order dated 21<sup>st</sup> April, 2003 were promoted much before 30<sup>th</sup> August, 2003, 1<sup>st</sup> September, 2003 and 5<sup>th</sup> November, 2003 when memorandum of charges were issued and the Supreme Court while dismissing the appeal filed by the Union of India held that "the disciplinary proceedings commence only when the charge sheet is issued. The departmental proceeding is normally said to be initiated when a charge sheet is issued." Since admittedly, the benefit of 25 years of service for Career Advancement Scheme accrued to the applicant on 10<sup>th</sup> April, 2019 and the applicant had opted for the same on 1<sup>st</sup> July, 2019 which was forwarded by the department on 11<sup>th</sup> March, 2020, as evident from page 24 of the original application, when there was no departmental proceeding, the applicant is entitled to the reliefs as prayed for in prayer 10 (a) of the application. Let there be an order in terms of prayer 10 (a) of the application to be granted by the Principal Secretary, Department of School Education, respondent no. 1, within fifteen weeks from the date of communication of this order downloaded from the website of the Tribunal. The application is allowed.

**(SAYEED AHMED BABA)**  
**Member (A)**

**(SOUMITRA PAL)**  
**CHAIRMAN**

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