

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member(J)

Case No. – OA-387 of 2019

Jayanta Pramanick & Ors. VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	:	Mr. M.N. Roy, Mr. G. Halder, Mrs. S. Agarwal, Learned Advocates.
<u>11</u> 22.02.2022	For the State Respondent	:	Mr. G.P. Banerjee, Mr. B.P. Roy, Learned Advocates.
	For the Pr. A.G.W.B.	:	Mr. B. Mitra.

The instant application has been filed by the five applicants basically praying for a direction to the respondent authorities to fix the pay scale of the applicants in the Pay Band 3 of Rs.7,100-37,600/- with a Grade Pay of Rs. 3,900/- in the pre-revised scale of pay under Scale 10 from the date of joining/promotion of the respective applicants to the post of Estate Supervisor under the Housing Department, Government of West Bengal. As per the applicants, they were promoted to the post of Estate Supervisor on different dates in the scale of pay of Rs.7100/---37600/- with a grade pay of Rs. 3600/- in Pay Band 3. However, according to the applicant, they are entitled to Grade Pay of Rs. 3900/- in the pay scale of Rs. 7100/- - 37600/- (erstwhile Scale 10) since they were promoted to the post of Estate Supervisor.

During the course of hearing the counsel for the applicants has drawn my attention to the order dated 19.02.2009 passed in OA-147 of 2003 (Annexure-B) wherein the same issue was considered and this Tribunal had directed the respondents to grant Scale 10, which is equivalent to the Pay Band 3 (Rs. 7100/-37600/- with a grade pay of Rs. 3900/-) and was subsequently implemented by the concurrence of the Finance Department vide order dated 27.05.2010,18.05.2010 & 27.05.2010 (Annexure-C). Therefore, as the applicants are similarly circumstanced with the aforesaid applicants, they are praying for extension of benefit of the said judgement.

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The counsel for the respondent , however, has submitted that out of five applicants, two of them were promoted to the post of Estate Supervisor from the post of Caretaker-cum-Rent Collector (Grade-I) and other three applicants were promoted to the post of Chief Inspector, Information Assistant and Accountant, which are equivalent to the post of U.D.A. Therefore, they are not entitled to get the Grade pay of Rs. 3900/- as they are already getting enhanced grade pay.

The counsel for the applicant in reply to the respondents has further drawn my attention to the order dated 19.02.2009, whereby the same issue with regard to the promotion from U.D.C. & Caretaker, Grade-I to Estate Supervisor were dealt with by this Tribunal and thereafter was held that they are entitled to get the benefit of erstwhile Scale No. 10 and Grade Pay of Rs. 3900/- in Pay Band 3 (Rs. 7100-37600/-).

Heard both parties and perused the record as well as the judgement passed by this Tribunal in OA-147 of 2003 dated 19.02.2009 wherein it has been held in :-

“The applicants have furnished their order of appointment dated 26.03.1997 as Estate Supervisor (Annexure-A). While this order mentioned at the beginning that Shri Pranab Kumar Das, Pranab Kanti Barman Roy (respondent no. 1 (vi) and Bithi Charaborty (respondent No. 1 (viii) were temporarily appointed as Estate Supervisor in the scale of pay Rs. 1260-2610/- at the end it is clearly mentioned that these employees were promoted to the post of Estate Supervisor from their respective posts. Thus the basic assertion in the reasoned order of respondent no. 2 (ii) that some U.D. Clerks and Caretaker Grade-I were appointed as Estate Supervisor but not promoted which needless to

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mention, is contrary to that as taken in the reply filed in OA-1340 of 1997 fails. There is also no doubt that the pay scale of the feeder post and that of the promotional post were the same. Promotion means assumption of higher responsibility as also award of higher emolument, in most cases, a higher scale of pay. Reference may be made to the case of C.C. Padmanavan Vs. D.P.I. reported in AIR 1981 SC 64. That the appointment on promotion in this case involved assumption of higher responsibility is clear from the description of duties (Annexure-B). It logically follows that on promotion to the higher post the applicants should be entitled to higher emolument /higher scale of pay. The prayer of the applicants for award of scale no. 10 i.e. Rs. 1390-2970/- being found acceptable they are entitled to the same. "

On query, the counsel for the respondent has submitted that no appeal has been preferred against the said order.

The counsel for the applicants has submitted that the applicants have made representation before the authority on 19.02.2018 and 11.05.2018 but till date no final decision has been communicated.

In view of the above, in my considered opinion, the applicants are having a prima facie case since the applicants were promoted to the post of Estate Supervisor on different dates, therefore, I direct the Respondent No. 1, Secretary, Housing Department, Govt. Of West Bengal to consider the case of the applicants taking into account the judgement dated 19.02.2009 passed in OA-147 of 2003 and verify the cases of the applicants if they would have found eligible, they may be extended the benefit of the said judgement by way of passing a speaking and reasoned order and communicate the same

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within a period of twelve weeks from the date of receipt of the order.
Accordingly, OA is disposed of with no order as to costs.

Since the circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

URMITA DATTA (SEN)
MEMBER (J)

SC