

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. –OA 393 of 2020

NILANJAN CHOUDHURY

- VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

For the Applicant

: Mr.M.N.Roy
Mr.G.Halder
Advocates

02
24.02.2021

For the respondent No. 1 and 2

: Mr.S.Ghosh
Advocate

The matter is taken up by the single Bench pursuant to the notification no.949-WBAT/2J-15/2016 dated 24th December, 2020 issued in exercise of the powers conferred under sub-Section (6) of Section 5 of the Administrative Tribunals Act, 1985.

In this application, Nilanjan Choudhury, Regional Transport Officer & Ex-Officio Assistant Director, who has superannuated, has prayed for several reliefs, the relevant portion of which is as under:

a) An order do issue thereby directing the respondent authorities to allow your applicant the promotion to the post of “Regional Transport Officer & Ex-officio Assistant Director” in the rank of Regional Transport Officer on and from 08.05.2015 being the date when the respondent no. 5 being junior to your applicant in the gradation list got the promotion within a stipulated time period under Transport Department in the pay Band 4A Scale of Rs. 15,600-42,000/- with corresponding Grade Pay of Rs. 5,400/- under ROPA 2009.

b) An order do issue thereby directing the respondent

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authorities to re-fix the pay, pension and pensionary benefits of the applicant in the Pay Band of Rs. 15,600-42,000/- with corresponding Grade Pay of Rs. 5,400/- in Pay Band-4A under ROPA 2009 on and from 08.05.2015 with immediate effect and after re-fixation pay the arrears alongwith interest @ 18% p.a. till the actual date of realization of the same.

It appears the applicant while discharging his duties in the capacity of Additional Regional Transport Officer was chargesheeted vide memo. dated 9th June, 2014. Thereafter the authorities had passed a final order inflicting penalty of withholding one increment for one year under Rule 8 (ii) of West Bengal Services (Classification Control & Appeal) Rules 1971.

Against the said order of punishment the applicant moved the West Bengal Administrative Tribunal by filing an application, being OA-190 of 2018, which ended in passing a judgement on 10th December, 2019 quashing the entire departmental proceedings. It is submitted on behalf of the applicant that till date no writ petition has been filed challenging the order dated 10th December, 2019 passed in OA-190 of 2018.

The applicant had superannuated on 30th September, 2018.

According to the applicant since he was entitled to be promoted to the post of Regional Transport Officer & Ex-Officio Assistant Director on and from 8th May, 2015 and though a representation dated 21st September, 2020 was filed,

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which has not been considered, appropriate order may be passed directing the respondents to grant promotion notionally with effect from the date on which his immediate junior was promoted, that is with effect from 8th May, 2015.

Mr.M.N.Roy, learned advocate appearing on behalf of the applicant submits that since the applicant succeeded in having the departmental proceedings quashed and as he was entitled to be promoted to the post of Regional Transport Officer & Ex-Officio Assistant Director, appropriate order may be passed giving him the benefit of promotion from 8th May, 2015.

Mr.S.Ghosh, the learned advocate appearing on behalf of the State respondent nos. 1 and 2 submits that the applicant is not entitled to get actual financial benefit for promotion to the post of Regional Transport Officer & Ex-Officio Assistant Director on and from 8th May, 2015 as he did not serve the said post at all till 30th July, 2018.

Heard learned advocates for the parties. Since, admittedly, the applicant had succeeded in the departmental proceedings and had superannuated on 30th September, 2018 that is during the pendency of the departmental proceedings, and as the respondent nos. 1, 2 and 3 despite direction have not filed reply, the statements made in the application are deemed to be correct. Therefore, considering the facts and circumstances of the case the application is allowed by directing the Principal Secretary, Transport Department, Government of West Bengal, the respondent no. 1 to grant promotion and promotional benefits notionally to the applicant from 8th May, 2015 to the post of Regional Transport Officer & Ex-Officio Assistant Director and shall place him notionally above the

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private respondent no. 5 with effect from 8th May, 2015 and shall grant him all consequential benefits and also actual benefits from the date of his retirement on 30th September, 2018 within 15 weeks from the date of presentation of a copy of the order downloaded from the Internet/ website.

Since for 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.

(SOUMITRA PAL)
CHAIRMAN

BLR.