

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,
Case No. - OA 492 OF 2023**

MD. NAZIMUL ISLAM MOLLAH & OTHERS - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and

Date of order

07
16.07.2024

For the Applicants : Mr.Manujendra Narayan Roy
Advocate
For the State Respondent : Mr. Sankha Ghosh
Advocate
For the Private Respondents : Mr.Goutam Pathak Banerjee
Advocate
For the Public Service : Mr.Sourav Bhattacharjee
Commission, West Bengal Advocate

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

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

In response to the submissions and arguments presented by the applicant side earlier, Mr.Ghosh draws attention to West Bengal Services (Determination of Seniority) Rules, 1981, in particular, rule 6 (a) which is as under:

“6. Relative Seniority of direct recruits and promotees – (1) The relative seniority between a promotee and a direct recruit shall be determined by the year of appointment or promotion of each in the post, cadre or grade irrespective of the date of joining.

(2) The promotees shall be enbloc senior to the direct recruits of the same year.”

Submission of Mr.Ghosh is that the rule 6 (2) makes it very clear that 2016 being the year of appointment for both the promotees and direct recruits, it is the promotees who will be treated senior enbloc to

the direct recruits of the same year.

It appears clear that in the matter relating to seniority in the gradation list, the Rule 6 of WBS (DoS) Rules, 1981, the year of the appointment is the most important criteria to determine one's seniority in the gradation list. Rule 6 (2) further clarifies that if the year of appointment happens to be the same year, in such case, the promotees enbloc will be determined senior to others. In his submission, Mr.Roy has drawn attention to Memo. No. 4541 dated 23.09.2015. By this Memo. the Department notifies 22 successful candidates that they have been recommended for the post of Joint Block Development Officer and thus, asking for their willingness to accept such offer. Since this Memo. is dated 23.09.2015, Mr.Roy argues that 2015 be considered as the year of appointment. Another Memo. referred in this application, being Memo. No. 188 dated 29.02.2016, appears to be an appointment letter. The first line itself says "the Governor is pleased to appoint the following candidates in the post of Joint BDO.....". The question is whether the Memo. No. 4541 dated 23.09.2015 or the Memo. No. 188 dated 29.02.2016, is to be considered as the Appointment letter and, therefore, the year of appointment to be decided.

Mr.G.P.Banerjee, learned counsel wishes to file a reply on behalf of the Private respondents.

Let such reply be filed by the next date and a copy be served on the other side. Matter to appear under the heading 'Hearing' on 18th September, 2024.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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