

**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 520 of 2022**

**Tulu Debnath -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

06  
12.07.2023

For the Applicant : None.  
For the State respondent : Ms. R. Sarkar,  
Nos. 1 and 2 : Mr. S. Debray,  
Mrs. A. Bhattacharya,  
Mr. R. Bag,  
Ld. Depttl. Reps.  
For the State Respondent : Mr. M.N. Roy,  
No. 4 : Ld. 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 23<sup>rd</sup> 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.

The prayer in this application is for setting aside the impugned order No. 2539-LA-III/1E-6/2021 dated 23.09.2021. By this impugned order, the applicant, a Head Clerk was appointed on promotion to the post of Office Superintendent w.e.f. 27.11.2020. The contention of the applicant is that after the promotion of one Siddhartha Banerjee as Deputy Registrar, this post of Office Superintendent had become vacant w.e.f. 27.11.2020. The order No. 42/21-22 dated 18.08.2021 also makes it clear that her promotion is to be given effect from 27.11.2020. However, by another order of the respondent authorities dated 23.09.2021, the date of promotion was altered and now instead of 27.11.2020, her promotion was to be given effect from 18.08.2021, the date she assumed the charge of Office Superintendent. The applicant relies of Notification No. 4982-F dated 17.06.2005, in particular the following para is referred to :

*“3.(i) In case of normal promotion to the common-cadre posts in the secretariat in ..... appointing authority is an authority subordinate to the Governor, the posts may be ..... date(s) of occurrence of the vacancies and their pay in the promotional posts may be..... date(s) of promotion in the relaxation of Rule 54(1)(a) of the WBSR-I.”*

Submission of the Ld. Departmental Representative is that the mistake in

**ORDER SHEET**

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the earlier erroneous order of promotion being No. 42/21-22 dated 18.08.2021 issued by the Rent Controller was detected by the Department. Since the applicant did not belong to the common cadre, therefore, as per Notification No. 4982-F, her promotion was to come into effect from the date of taking charge such post. In this case, although the vacancy occurred on 27.11.2020, but she assumed the charge of the new post of promotion on and from 18.08.2021. In view of the above observation, the wrong order issued giving her promotion to the post of Office Superintendent w.e.f. 27.11.2020 was revised by the order dated 23.09.2021 by the Department. Hence, her promotion, as per the revised order and as per existing rule, was given effect from 18.08.2021.

Ms. Sarkar submits that the matter has already been referred to the Finance Department for their views. She also submits that a reply will be filed on behalf of the Department on the next date.

Let the matter appear under the heading “**For Orders**” on **21.02.2024**.

Reply and rejoinder, if any, in the meantime.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

HS/SS