

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. –OA 57 of 2019

SUSANTA KUMAR SIDDHANTA

- VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

For the Applicant

: Mr.G.P.Banerjee
Advocate

10
15.02.2021

For the State Respondent

: Mr.S.Ghosh
Mr.S.K.Mondal
Advocates

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.

After the matter was admitted though directions were issued to file reply, no reply has been filed on behalf of the State respondents.

In this application, Susanta Kumar Siddhanta, the applicant has prayed for several reliefs, the relevant portion of which is as under:

- a) Direction be given upon the respondents to forthwith rescind/cancel and/or withdraw the impugned order of notional promotion to the applicant to the post of Lower Division Clerk and there after upper Division Clerk which is Annexure "E" and "F" to this Original Application;
- b) Direction be given upon the respondents to calculate and pay the differential salary amount of the applicant for the post of Lower Division Clerk with effect from

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02.05.2012 till 26.12.2012 and to the post of Upper Division Clerk with effect from date of Promotion, i.e. 27.12.2012 till date together with interest @ 8 % per annum over the said accrued amount;

- c) Direction be given upon the respondents to take immediate step to transfer service of the applicant near to his permanent place of resident in view of the fact that the applicant already crossed 57 years of age and on the verge of retirement from service.

It appears that the state respondent had issued a letter dated 24th March, 1998 appointing the applicant as Peon (Group D). He joined the said post on 1st April, 1998. Later he was arrested in connection with Egra, Police Station Case No. 71 of 2004 under Sections 419/420/120B of the Indian Penal Code. Thereafter the applicant had moved an application, being OA-901 of 2012, praying for promotion to the post of Lower Division Clerk which was held up due to the pendency of the criminal case. The Tribunal by its order dated 29th August, 2014, dismissed the application. Thereafter by judgement and order dated 18th April, 2015, the Learned Judicial Magistrate, 2nd Court, Contai, District- Purba Medinipur acquitted the applicant, a copy which was forwarded to the Joint Director of Employment, District Employment Exchange, Egra, the respondent no. 6 who had forwarded the same to the Director of Employment, the respondent no. 4 for necessary action. Thereafter, the applicant by order dated 11th January, 2018 was promoted to the post of Lower Division Clerk. Subsequently, by order dated 11th January, 2018 the applicant was promoted to the post of Upper Division Clerk retrospectively with effect from 27th December, 2012.

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Mr.G.P.Banerjee, learned advocate appearing on behalf of the applicant submits that since the applicant was acquitted from the criminal case, the applicant is entitled to actual benefits from 2nd May, 2012 to 26th December, 2012, instead of having it calculated notionally.

Mr.S.Ghosh, learned advocate for the respondents submits that the applicant has already been granted notional benefits from 2nd May, 2012.

Heard learned advocates for the parties. There is no dispute that the applicant who, during his tenure as Group D Peon was arrested in connection with a criminal case and was acquitted. Thereafter, he was promoted to the post of Lower Division Clerk with retrospective effect and thereafter to the post of Upper Division Clerk also with retrospective effect. Since the applicant had succeeded in the criminal case, in my view, the applicant is entitled to notional benefits from 2nd May, 2012 and the benefit will be given to him by the Additional Director of Employment, Government of West Bengal, the respondent no. 5, if not already granted, within 15 weeks from the date of presentation of a copy of this order downloaded from the Internet/ website.

The application is disposed of.

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.

SM.

(SOUMITRA PAL)
CHAIRMAN