

ORDER SHEET

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 – 587 of 2016

Sanjay Das VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	:	Mr. M.N. Roy, Learned Advocate.
<u>23</u> 20.09.2023	For the State Respondents	:	Mrs. S. Agarwal, Learned 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, the matter is taken up for consideration sitting singly.

Mr. Roy, learned counsel appearing on behalf of the applicant submits that challenging the promotion given to Respondent No. 5 Sanjit Sardar without having completed mandatory probationary provision of three years, Mr. Roy quotes West Bengal (Appointment, Probation and Confirmation Rules, 1979). As Rule 5 (i) (a) it requires a new employee to be on probation on completion of continuous two years in service. Rule 5 (ii) also states that “except as otherwise provided elsewhere in this rules, period of probation it shall be one year”. According to Mr. Roy if both Rule 1 and 5 are read together it would mean that a new employee requires to be on temporary service and on probation for a total of three years.

Responding on behalf of the state respondents, Mrs. Agarwal submits the following :-

- a) Ashim Ranjan Paul, Respondent No. 4 was promoted to the post of U.D.C. earlier to the applicant due to the fact that as per the gradation list published on

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31.05.1995, Ashim Ranjan Paul appearing at sl. No. 42 was senior to the applicant who was at sl. No. 43. Therefore, the promotion given to Ashim Ranjan Paul on 26.05.2003 earlier to the applicant was in accordance with prevailing rules.

- b) As regards the issue relating to Sanjit Sardar, Mrs. Agarwal points out that the promotion of these employees are governed by PRB-1943 and not by the Notification of the Finance Department dated 25.06.1979 as submitted by Mr. Roy. Mrs. Agarwal submits that as per Regulation 76 (a) of PRB-1943 the probationary period for such employee is only for one year.

After hearing the submissions of the learned counsels, the Tribunal finds that the following issues are to be examined closely:-

- a) For promotion of the applicant and the private respondents in this application whether the PRB-1943 or the Notification of the Finance Deptt. dated 25.06.1979 will be applicable.
- b) Whether promotion of Respondent No. 5 Sanjit Sardar without completing the mandatory probationary period is valid or not has to be seen from the point of view whether the Notification dated 25.06.1979 or the PRB-1943 is applicable.

It is also be checked and considered the dates of appointment of each candidate in this application and the post of their seniority for final gradation list.

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Let the matter appear under the heading for “Orders” on

28.03.2024.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

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