

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,
Mr. G. Halder,
Ld. Advocates.

25
22.01.2025

For the State Respondents : Mrs. S. Agarwal,
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 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

It has been made clear by the submissions that Sanjit Sardar was given the promotion within one year of his probationary period as he holds a civil post as a Ministerial Staff. His promotion rule should have been governed by the Finance Department's Notification dated 25.06.1979 and not under PRB 1943. Promotion of Asim Ranjan Pal by virtue of his being senior to the applicant is not contested. Seniority of the applicant, Sanjay Das is the main question for the reason that the applicant was appointed on 28.12.1993, whereas Sanjit Sardar was appointed on 15.01.1999. The question of earlier promotion to Sanjit Sardar (ST) on the ground of his being a reserved candidate does not arise since the applicant also belongs to a reserved category (SC). From the submissions of Mr. Roy, it has become clear that the applicants ground for agitating for such promotion w.e.f. 01.10.2002 is that when the 4th vacancy in the 50 point roster became available, the promotee Sanjit Sardar, a ST candidate should not have filled up that vacant post because he had not completed the required probationary period and thus he was not a confirmed a service employee. Instead, this post should have been converted into a SC seat and the applicant allowed to fill up this promotion. Mr. Roy refers to rule 10(c) of the West Bengal Scheduled Caste and Scheduled Tribe (reservation of vacancies in services and posts) Act, 1976. "While vacancies reserved for Scheduled Caste and Scheduled Tribes will be continued to be reserved for the respective community only. An Scheduled Caste employee may also be considered for appointment against a vacancy reserved for Scheduled Tribes or vice-versa."

The PRB at Rule 768(viii) states the following :

"Subordinate clerks shall be on probation for two years and on the expiry of this period shall be confirmed by the Superintendent if found suitable." A cover in the Service Book of Sanjit Sardar records that he was confirmed in

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service as LDC w.e.f. 15.10.2001 after successful completion of two years of service on probation. Later on 10.05.2002, he was promoted to the post of UDC against a vacancy reserved for his category being Scheduled Tribe.

Let submissions of the State side be heard under "Further Hearing" on 13.03.2025.

SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)