

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Administrative Member

Case No. – OA 685 of 2022

KAMAL HOWLADER – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	: Mr. Gautam Pathak Banerjee, Mr. Arindam Mitra, Advocates
<u>3</u> 24.11.2022	For the State Respondents	: Mr. Sankha Ghosh, 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 this application, the prayer is for directing the respondent authorities to appoint the applicant on promotion on provisional basis to the cadre of West Bengal Civil Services (Executive).

As submitted by Mr. Gautam Pathak Banerjee, learned counsel appearing for the applicant, the applicant was under zone of consideration for promotion to the post of West Bengal Civil Service (Executive) for the year 2018. However, due to vigilance enquiry, his name was not sponsored and recommended to the Public Service Commission, West Bengal. In due course, the respondent initiated a departmental proceeding against the applicant in the year 2019 while he was posted as Jt. B.D.O., Manikchak Block, District - Maldah.

Mr. Banerjee submits that although the applicant was found eligible for promotion to W.B.C.S. (Exe.) in the year 2018, yet, at that point of time, there was no departmental proceeding / vigilance / criminal case pending against the applicant.

Mr. Banerjee also refers to memo No. 224-P&AR (Vig.) dated Calcutta, the 12th June 1980, the relevant portion of which is as under:

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“....2(ii) The confirmation / promotion / efficiency bar crossing / selection grade appointment of a Government servant or recruitment of in service candidates to higher posts should not be held up in cases, where disciplinary proceedings having been started, have continued for more than three years,....”

Since the applicant was not considered for promotion, others junior to him have been promoted and the respondent has acted with mala fide intention.

Mr. Banerjee also submits that the authorities failed to consider the fact that as on 01.01.2018 when the applicant was found eligible for promotion for quota of the year 2018, there was no departmental proceeding / vigilance case / criminal case pending against the applicant.

Mr. Sankha Ghosh, learned counsel appearing for the State respondents submits that if so directed, the respondent will consider a representation by the applicant in accordance with law.

SCN.

Mr. Banerjee prays that liberty may be given to submit representation ventilating his grievances before the respondent.

Having heard both the learned advocates and perusing the records, the matter is disposed of by directing the respondent No.2, the Secretary, Department of Panchayat and Rural Development, Government of West Bengal to consider the representation, if submitted by the applicant and pass a reasoned order and dispose of the same within a period of eight weeks from the date of submission of such representation by the applicant.

The matter is disposed of.

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