

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. – OA 772 of 2021

SAMBHU NATH DAS

- Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

For the Applicant

: Mr.Rajat Dutta
Advocate

08

05.07.2023

For the State respondent

: Ms.R.Sarkar
Mr.S.Debray
Mr.R.Bag
(Departmental Representatives)

For the Principal Accountant
General (A&E) West Bengal

: Mr.B.Mitra
(Departmental Representative)

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 counsel and the Departmental representatives, the case is taken up for consideration sitting singly.

The prayer in this application is for a direction to the respondent authority to correct / rectify his service book by noting “appointment to officiate” instead of “promotion” in respect to the post of Counter Assistant and Treasurer’s Assistant in terms of the appointment orders.

In brief, the superannuated employee has been submitting representations before the respondent authorities, one such representation is dated 04.11.2016 appearing at page 96 of this application. It appears from the representation that the applicant was promoted / appointed to officiate from Group-D to different posts. The last post held by the applicant before superannuation was Office Superintendent. As contended by the applicant, due to wrong nomenclature used by the respondent authority, instead of using the word “appointment to officiate”, the word “promotion” has been used

ORDER SHEET

Form No.

SAMBHU NATH DAS

Vs.

Case No. **OA 772 of 2021**

THE STATE OF WEST BENGAL & OTHERS.

without approval of the Collector. As a result, the applicant was deprived of financial benefits as compared to his colleagues including some juniors to him. Therefore, submission is that the respondent authority may be directed to correct his service book by replacing the word “promotion” with “appointment to officiate” as has been done with regard to some other employees. Reference is made to one such correction made in the service book of one Ranjit Kumar Banerjee, referred in page No. 142 of this application. In the entry dated 22.05.1977 the word “appointment” has been added after striking the word “promotion”.

Submitting on behalf of the Department, Mr.S.Debray, points out that the same applicant, along with others, had approached this Tribunal in OA-28 of 2009. The Tribunal after hearing the matter, dismissed the application without any orders since the Tribunal did not find any merit in the application. Therefore, filing another application in this Tribunal on the same or similar matter is res judicata.

In response to the above submission, Mr.Dutta disagrees by stating that the matter in OA-28 of 2009 was primarily related to CAS benefit. In this application, the primary matter relates to direction to the respondent to correct the entry in his service book. To this, Mr.Debray submits that this prayer, besides correction in the service book, also includes a direction to the respondent to grant consequential benefits in his pension after such correction is made in the service book of the applicant.

In view of this, submission of the Department is that this application is not maintainable due to res judicata. Further submission is made by Ms.Sarkar that this application is also not maintainable on the ground of limitation, since the applicant has retired in the year 2014,

ORDER SHEET

Form No.

SAMBHU NATH DAS

Vs.

Case No. **OA 772 of 2021**

THE STATE OF WEST BENGAL & OTHERS.

whereas this application has been filed in the year 2021.

Let the matter be heard under the heading "For Order" on
04.09.2023.

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

BLR