

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

Present : **HON'BLE JUSTICE SOUMITRA PAL,**      **HON'BLE CHAIRMAN &**  
**HON'BLE SAYEED AHMED BABA,**      **ADMINISTRATIVE MEMBER.**

Case No. – OA 840 of 2015 (MA 59 of 2022).

INDRANIL SADHUKHAN AND OTHERS -VERSUS-THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

27  
29.6.2022

For the Applicants : Mr. A. Maity ,  
Advocate.  
For the State respondents : Mr. G.P. Banerjee,  
Mr. D. Koley,  
Advocates.  
For the P.S.C.W.B. : Mr. A.L. Basu,  
Mr. S. Bhattacharjee,  
Advocates.

In this application, Indranil Sasdhukhan, Simadri Biswas, Raju Roy and Sujoy Bandyopadhyay, the applicants, working at present as Junior Lecturers at various Polytechnics, have prayed for certain reliefs, the relevant portion of which is as under :-

*b) An order by declaring that the respondents are bound to promote your applicants to the post of lecturer in terms of the amendments which was notified on April 8, 2009 on the basis of their respective qualifications which were for the said post of lecturers in terms of the then existing recruitment rules.*

*c) A direction directing the respondents to promote your applicants to the post of lecturer and issue letter appointment in favour of the applicants in the said promotional post of lecturer with effect from the date when the respective applicants improved their qualification for the post of lecturer and/or from April 8, 2009 as applicable to the applicants.*

*d) An order by declaring the recruitment rules regulating the recruitment to the posts of Lecturer in Engineering or Non-Engineering or Technology in Government Polytechnics in West Bengal General Service under the Department of Technical Education and Training Government of West Bengal Rules 2012 is ultravires to the constitution of India to the extent it takes away the accrued right of the applicants.*

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*e) In alternative an order by declaring that the recruitment rules regulating the recruitment to the posts of Lecturer in Engineering or Non-Engineering or Technology in Government Polytechnics in West Bengal General Service under the Department of Technical Education and Training Government of West Bengal Rules 2012 has no manner of application in respect of the vacancies which were existed before the said rules came in to force.*

*f) A direction directing the respondent to forthwith cancel/quash and/or revoke the decision dated April 17, 2012.*

*g) A direction directing the respondent to forthwith cancel/quash and/or revoke the advertisement No. 14/2014 issued by the Public Service Commission....”.*

It is submitted by Mr.A. Maity, learned advocate for the applicants that by the judgement of the Hon’ble High Court on 20<sup>th</sup> July, 2018 passed in FMA 2801 of 2016 with CAN 723 of 2018, the Director, Directorate of Technical Education and Training, Government of West Bengal v. Tarun Kumar Khanra & Ors., the issues raised by the applicant have been upheld. The appeal filed before the Hon’ble Supreme Court, being special leave to appeal nos. 14606-14607 of 2019, was dismissed on 19<sup>th</sup> April, 2022. Submission is, in view of the judgment passed by the Hon’ble High Court and the order passed by the Hon’ble Supreme Court, appropriate order may be passed in favour of the applicants.

Mr. G.P. Banerjee, learned advocate for the State respondents submits that the matter is covered by the said judgement and order passed by the Hon’ble High Court and the Hon’ble Supreme Court.

In order to decide the issue, it is relevant to refer to paragraph 26(a) and (e) of the judgement in FMA 2801 of 2016 with CAN 723 of 2018, which is as under :

*“a. The order impugned is confirmed on the question of law that all junior lecturers whether called “Demonstrators” or otherwise, who were*

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*in service as on April 8, 2009, in all polytechnics, engineering colleges and institutions in West Bengal, whether Government, Government sponsored, non-Government and private, by virtue of the transitory provisions notified by the notification date April 8, 2009, are entitled to be upgraded / promoted as Lecturers provided that they had the requisite minimum qualification of either a degree or diploma in the requisite subject (engineering or science as the case may be) in terms of the recruitment rules till March 2009 or if they improved their qualifications within 5 years from April 8, 2009.*

*e. The benefits of the order impugned in the appeal shall be available to all persons who were similarly situated as the writ petitioners 2 to 6, but where the persons has the status of a Government servant, even as a special measure, the grant of such benefit shall be enforceable before the West Bengal State Administrative Tribunal, in case the Government polytechnic refuses to upgrade his services and the writ petitioner no.1 shall have the right to apply to the appropriate authority of the State of West Bengal for such upgradation on the basis of this order and in case of any refusal, shall have the right to approach the said Administrative Tribunal. This direction is passed in terms of the amended provisions of Rule 53 of the Rules of this Court relating to applications under Article 226 of the Constitution of India for the ends of justice.”*

It is pertinent to mention that the applicants had secured the necessary qualification for being promoted to the post of Lecturer as evident from page 5 of the Miscellaneous application being MA 59 of 2022.

Hence, in view of the judgement passed by the Hon'ble High Court, let there be an order directing the Director, Directorate of Technical Education and Training, West Bengal, Kolkata , - the respondent no. 2 to issue letters of appointment in their favour in the promotional post of Lecturer with effect from the date when they acquired the necessary qualification, as per notification dated 8<sup>th</sup> April, 2009 which is to be decided by the respondent

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no. 2 within a period of eight weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal after verifying the records.

The Original application and the application being MA 59 of 2022 are disposed of.

(SAYEED AHMED BABA)  
MEMBER(A)

(SOUMITRA PAL)  
CHAIRMAN.

Sk.