

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

HON'BLE JUSTICE SOUMITRA PAL, HON'BLE CHAIRMAN.

Case No. – OA 86 of 2016.

SRI BIMAN KUMAR BARUA & ORS - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	: Mr. A.K. Das Sinha, Advocate.
<u>21</u> 24.3.2021	For the State Respondents	: Mr. G.P. Banerjee, Advocate.

The matter is taken up by the single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24<sup>th</sup> December, 2020 issued in exercise of the powers conferred under sub section (6) of section 5 of the Administrative Tribunals Act, 1985.

Though the matter has appeared under the heading “Reply/Rejoinder and Objection”, Mr. A.K. Das Sinha, learned advocate submits though reply has not been filed, the matter be heard on the basis of records. Mr. G.P. Banerjee, learned advocate for the State respondents does not object to such submission.

In this application Biman Kumar Barua, Krishna Chandra Acharya, Chinmay Sen have prayed for certain reliefs, the relevant portion of which is as under :-

*“.....(b) An order directing the respondents to grant the benefits of upgradation to the post of Head Surveyor in scale no. 11 (Rs. 4650-10175/-) with effect from 1.1.2008 and further consequential benefits including revised post retirement benefits with arrears.*

*(c) An order directing the respondents to grant the benefits of upgradation/promotion on restructuring to the post of Head Surveyor with effect from 1.1.2008 with all consequential monetary benefits as well as interest on arrears...”*

The applicants, all employees of P.W.(Roads) Department, Government of West Bengal and Grade-I Surveyors in the office of the Executive Engineer, High Way Survey Division No. I, P.W.(Roads)

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Directorate, had superannuated on 30<sup>th</sup> June, 2014, 30<sup>th</sup> September, 2012 and 31<sup>st</sup> July, 2011 respectively. The grievances of the applicants is since there were 156 sanctioned basic grade post of Surveyors under Public Works (Roads) Directorate as on 1<sup>st</sup> April, 1981 and in terms of the Finance Department memo dated 15<sup>th</sup> September, 1984 read with the memo dated 18<sup>th</sup> December, 1987 and memo dated 19<sup>th</sup> August, 1988 1/3<sup>rd</sup> of 156 sanctioned posts of Surveyors being 52 posts were converted to Grade-I post with effect from 1<sup>st</sup> April, 1981 in the said Directorate by order dated 7<sup>th</sup> December, 1988 and it was ordered that Surveyors Grade-I should be maintained at the ratio of 2:1 in terms of the Finance Department memo No. 7672-F dated 3<sup>rd</sup> October, 2008 20 per cent of total posts of Surveyors and Surveyor Grade-I to be converted as Head Surveyor in scale no. 11 with effect from 1<sup>st</sup> January, 2008, the applicants though eligible for being considered were denied the benefit illegally. It is submitted by Mr. Das Sinha that since pursuant to the order dated 1<sup>st</sup> October, 2014 follow up action were taken as evident from the correspondences appearing at pages 16 and 17 of the application and as the name of the applicants appear at pages 18 and 19 in the list of Surveyors Grade-I, appropriate order may be passed. In this regard reliance has been placed on the order dated 22<sup>nd</sup> October, 2009 issued by the Irrigation and Waterways Directorate on the ground that since similarly situated employees in other departments have been granted similar benefits, the applicants are also entitled to the same. Since representations were furnished by the applicants on 17<sup>th</sup> June, 2015, as evident from pages 26, 27 and 28 of the application highlighting their grievances, appropriate direction may be passed for consideration of such representations filed before the authorities.

Submission is that there cannot be discrimination amongst the employees within the State Government, which is in violation of the Article 14 of the Constitution of India.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits that admittedly this original application was filed after the applicants had superannuated. According to him, the order dated 1<sup>st</sup> August, 2014 is not applicable in the case of the applicants as it relates to the “Existing” Head Surveyors, Supervisory Surveyors, Sr. Surveyors and Chief Surveyors. The order dated 22<sup>nd</sup> October, 2009 issued by the Irrigation and Waterways Directorate does not help the case of the applicants as it does not relate to Public Works (Roads) Department. Moreover, prayer of the applicants for consideration of the representations dated 17<sup>th</sup> June, 2015 does not have any substance as the applicants had already superannuated.

Heard learned advocates for the parties.

I find that though directions were issued to file reply and no reply has been filed, however, the matter can be adjudicated on the basis of the documents on record.

Evidently as the applicants had filed this original application after superannuation, the order dated 1st August, 2014 relating to the “existing” Head Surveyors, Supervisory Surveyors, Sr. Surveyors and Chief Surveyors, is not applicable to the case of the applicants. The order dated 22<sup>nd</sup> October, 2009 is inapplicable as it relates to the Irrigation and Waterways Directorate and not to the P.W.(Roads) Department. Assuming the order dated 22<sup>nd</sup> October, 2009 is applicable, the question is what had prevented the applicants from highlighting their grievances at that relevant point of time when they

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were in service. It is a fact that they had filed the representation on 17<sup>th</sup> June, 2015 after they had superannuated. Therefore, no order is passed on the application. The application is disposed of.

(SOUMITRA PAL)  
CHAIRMAN.

Skg.

WEST BENGAL ADMINISTRATIVE TRIBUNAL