

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-**

**The Hon'ble Justice Soumitra Pal, Chairman.**

**Case No. –OA-896 of 2017**

**Pranab Jyoti Ghosh. - Versus - The State of West Bengal & Others.**

Serial No. and Date of order	For the Applicant	: Mr. P. Chatterjee, Advocate.
<u>19</u> 12.08.2022.	For the State Respondents	: Mr. M. N. Roy, Mr. G. Haldar, Advocates.
	For the Public Service Commission, West Bengal.	: Mr. A. L. Basu, Mr. S. Bhattacharjee, Advocates.

The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 496-WBAT/1E-08/2003 (Pt.-II) dated 4th August, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

In the application, Pranab Jyoti Ghosh – the applicant, the Inspector of Minimum Wages, Government of West Bengal, has prayed for certain reliefs, the relevant portion of which is as under :-

*“a) Direction be issued upon the respondent authorities to make review of the promotion orders in the grade of Assistant Labour Commissioner issued vide notifications dated 30.01.2017 and 12.09.2017 with a view to consider the applicant for promotion to the said grade retrospectively w.e.f. 30.0.2017 assigning seniority over and above his juniors, Respondent No. 7 being the immediate junior as per Gradation List (Annexure “P-1”), with consequential benefits and arrear.*

*b) Direction be issued upon the respondent authorities to communicate such alleged adverse or below benchmark grading in ACRs assuring the applicant’s right to represent against such alleged adverse or below benchmark or such ACR entries attributable to alleged*

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*failure to earn the minimum average ACR merit rating so as to make him enable to attain suitability for promotion, if it so warrants.”*

It appears that pursuant to the directions of the Tribunal, the matter was admitted and thereafter, reply and rejoinder have been filed and are on record.

It is submitted by Mr. P. Chatterjee, learned advocate for the applicant that since the applicant is entitled to be promoted to the grade of Assistant Labour Commissioner, appropriate order may be passed to consider his application for promotion retrospectively with effect from 30<sup>th</sup> January, 2017. Submission is assuming there are adverse remarks against the applicant, the State respondents be directed to communicate the entries in ACR attributable to alleged failure to earn the minimum average ACR merit rating so as to make him enable to take corrective measures.

Mr. M. N. Roy, learned advocate appearing on behalf of the State respondents submits that the State respondents carry out the recommendations of the Public Service Commission, West Bengal and promotions given to other candidates are on the basis of such recommendations. On a query, it is fairly submitted by Mr. Roy that the settled principle of law is that an employee has to be furnished with the ACRs at the earliest.

Mr. A. L. Basu, learned advocate appearing for the Public Service Commission, West Bengal relying on the reply submits since the applicant did not secure the benchmark and those who have secured the benchmark and fulfilled other criteria for promotion have been

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recommended by the Commission to the respective departments for promotion long before 2017 and as the applicant secured 1.86 marks on assessment of his last five years of ACRs and as for that reason his name was not recommended for promotion, no order may be passed.

In reply Mr. Chatterjee, learned advocate submits that since no copy of the ACRs has been furnished by the State respondents, directions may issued on the Principal Secretary, Labour Department, Kolkata, Government of West Bengal – the respondent no.2 to furnish the ACRs of his client since 2012.

Having heard the learned advocates for the parties, in view of the submission made by Mr. Chatterjee, the application is disposed of by directing the Principal Secretary, Labour Department, Kolkata, Government of West Bengal – the respondent no.2, to furnish the ACRs of the applicant on and from 2012 within a period of eight weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal.

(SOUMITRA PAL)  
CHAIRMAN

S.M.