

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

Case No. – OA-357 of 2020.

Amarendra Kumar Singh. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. M. N. Roy, Mr. G. Haldar, Advocates.
<u>4</u> 6.8.2021	For the State Respondent	: Mr. G. P. Banerjee, Mr. S. Ghosh, Advocates.

The matter is taken up by the single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020 and 456-WBAT/2J-15/2016 dated 16th July, 2021 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

In this application, Amarendra Kumar Singh – the applicant, has prayed for certain reliefs, the relevant portion of which is as under :

“(a) An order do issue thereby directing the respondent authorities to allow your applicant (at present Executive Engineer) the promotion to the post of “Superintending Engineer” within a stipulated time period in the Civil wing of the West Bengal Engineering Service under Public Works Department in the pay Band Scale of Rs.28,000 – 52,000/- with Grade Pay of Rs.7,600/- in Pay Band -4B under ROPA 2009 on and from 08.11.2017 i.e. being the date when the respondent no. 6 herein got the promotion.

(b) An order do issue thereby directing the respondent authorities to re-fix the pay of the applicant in the Pay Band of Rs.28,000 – 52,000/- with Grade Pay of Rs.7,600/- in Pay Band -4B under ROPA 2009 on and from 08.11.2017 with immediate effect and after re-fixation pay the

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arrears alongwith interest @ 18% p.a. till the actual date of realization of the same.

(c) An order do issue thereby directing the respondent authorities to fix and restore the seniority as well as inter-se-seniority of the applicant in the promotional post of "Superintending Engineer" in the cadre of the West Bengal Engineering Service under Public Works Department on and from 08.11.2017 within a stipulated time period."

It appears that the applicant faced departmental proceedings which was challenged in OA-142 of 2019 : Amarendra Kumar Singh-Vs-State of West Bengal and Others, which was disposed of on 4th February, 2020 by a judgment holding :

"..... In view of the above, we are of the opinion that the impugned order has been passed in violation of the West Bengal Services (Classification, Control and Appeal) Rules, 1971. Even the charge sheet and enquiry report is liable to be quashed as without the absence of examination and cross-examination of witnesses, the entire proceedings has been vitiated. Accordingly, we quash and set aside the charge sheet dated 25.04.2016, findings of the enquiry officer, final punishment order dated 18.12.2018. Further respondents are directed to grant consequential benefit of the said period. However, the respondents will be at liberty to proceed against the applicant as per Rules, if so advised."

It is submitted by Mr. M. N. Roy, learned advocate for the applicant since Jayanta Mondal who is junior to the applicant, as evident from page-44 of the original application, has been promoted by

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notification dated 8th November, 2017, being annexure-“E” to the application and as the applicant has succeeded in the departmental proceedings, orders has prayed for may be passed. In this regard, attention has been drawn to the notification dated 25th June, 2020 wherein Sanjoy Kumar Dutta, similarly situated, has been given promotion and pay scale with retrospective effect.

Mr. G. P. Banerjee, learned advocate appearing on behalf of the State respondents in his fairness submits that since the applicant had succeeded before the Tribunal and on instruction submits that no writ petition challenging the judgment of the Tribunal has been filed, appropriate order as prayed for may be passed. Submission is in the case of Sanjoy Kumar Dutta, State authorities had challenged the order passed by the Tribunal dated 11th January, 2019 in OA-494 of 2017 before the High Court by filing the writ petition being WPST 105 of 2019 and were unsuccessful.

Heard learned advocates for the parties. It appears that the matter was admitted on 9th December, 2020 when directions were issued for filing of reply and rejoinder. However, no reply has been filed by the State respondents. Therefore, in absence of reply the statements made in the application are deemed to be correct. So far as the merit of the matter is concerned, there is no dispute that by the order dated 4th February, 2020 passed in OA-142 of 2019, departmental proceedings were quashed and the charge sheet was set aside and directions were issued to grant consequential benefits for the period in question. There is no dispute, as evident from page-45 of the application, that officer junior to the applicant has been given promotion. Moreover, the issue of the applicant is squarely covered by the case of Sanjoy Kumar Dutta who

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was given promotion and monetary benefits retrospectively from 21st July, 2014. Therefore, since departmental proceedings regarding the applicant have been quashed by the Tribunal and as junior to the applicant have been given promotion, the prayers of the applicant require to be upheld. Therefore, the application is allowed by directing the Additional Secretary, Public Works Department, Government of West Bengal, -the respondent no. 2 to promote the applicant to the post of Superintending Engineer in Civil wing of the West Bengal Engineering Service under Public Works Department in the pay Band Scale of Rs.28,000 – 52,000/- with Grade Pay of Rs.7,600/- in Pay Band -4B under ROPA 2009 on and from 08.11.2017, that is being the date when the respondent no. 6 herein got the promotion. Similarly let there be orders in terms of prayer 8(b) and (c) as prayed for in the application. The respondent no. 2 is directed to carry out this order within 15 weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal.

The application is allowed.

Since for circumstances beyond control the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

(SOUMITRA PAL)
CHAIRMAN

S.M.