

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

& The Hon'ble Sayeed Ahmed Baba, Administrative Member.

Case No. –OA-712 of 2021.

Shri Subrata Banik. - Versus – The State of West Bengal and Others.

Serial No. and Date of order	For the Applicant	: Mr. G. P. Banerjee, Advocate.
<u>2</u> 3.12.2021	For the State Respondents	: Mrs. S. Agarwal, Advocate.

Let affidavit of service filed today be kept on record.

Since despite service of notice none appears on behalf of the State respondents, Mrs. S. Agarwal, learned advocate, who normally appears on behalf of the State respondents, is requested to appear in this matter. Let a copy of the original application be served by Mr. G. P. Banerjee, learned advocate for the applicant on Mrs. Agarwal which is served and accepted. The Legal Remembrancer, West Bengal is directed to regularise the appointment of Mrs. Agarwal.

In this application, Subrata Banik, the applicant, has prayed for certain reliefs, the relevant portion of which is as under :-

“10.(a) A mandatory direction do issue upon the concerned respondent authorities to forthwith consider and grant provisional promotion in favour of the applicant to the rank of ‘Superintending Engineer’ under the Irrigation and Waterways Department, Government of West Bengal in terms of the Memorandum No. 224-P&AR(Vig) dated 12th June, 1980 of the Chief Secretary to the Government of West Bengal, Home Department, Personnel and Administrative Reforms Branch, as well as in the light of the solemn Orders of the Hon'ble High Court at Calcutta passed in WPST No. 154 of 2014 on 4th February, 2015 and in WPST No. 113 of 2018 on 18th September, 2018 being Annexure-‘C’ and ‘D’ herein, and to command

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them to act strictly in accordance with law;”

It is submitted by Mr. Banerjee though disciplinary proceeding was initiated on 26th July, 2018 and though the Articles of charges have been furnished and the applicant has replied to the charges, the disciplinary proceedings are yet to be concluded even after three years. Submission is in view of the memorandum dated 12th June, 1980 issued by the Department of Personnel & Administrative Reforms, particularly the stipulations contained in paragraph 2(ii) thereof and the law laid down in the judgment of High Court, Calcutta delivered on 18th September, 2018 in W.P.S.T. No. 113 of 2018 : Supriya Mondal - Versus- The State of West Bengal & Others, the applicant is entitled to be promoted on provisional basis. Since it is not the case of the respondents that the applicant has resorted to dilatory tactics in the disciplinary proceedings, appropriate order be passed.

Mrs. S. Agarwal, learned advocate for the State respondents submits that the question is whether the applicant is eligible for promotion and whether employees similarly situated have been promoted or not. If employees similarly situated have been promoted, the case of the applicant will be considered for promotion on provisional basis.

In view of the submission made on behalf of the parties and considering the facts and circumstances of the case, the application is disposed of by directing the Principal Secretary, Irrigation and Waterways Department, Government of West Bengal – the respondent no. 1, to consider the case of promoting the applicant on provisional basis due to the pendency of the departmental proceedings in the light of the memorandum dated 12th June, 1980, particularly the stipulations contained in paragraph 2(ii) thereof and the law laid down in Supriya

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Mondal (Supra), by passing a reasoned order to be communicated to the parties, within a period of 15 weeks from the date of presentation of a copy of this order downloaded from the internet / website of the Tribunal, after considering the relevant records and after considering whether others similarly situated have been promoted or not, in accordance with law.

(SAYEED AHMED BABA)
MEMBER (A)

(SOUMITRA PAL)
CHAIRMAN

S.M.