

**ORDER SHEET**  
**West Bengal Administrative Tribunal**

Present.-  
The Hon'ble  
&  
The Hon'ble

Case No. **CCP – 83 of 2017**

*Shri Hari Krishna Dwivedi, IAS, Principal  
Secretary, Finance Department, Government of*

*Mina Samaddar & Others.*

*Versus West Bengal.*

Serial No. and date of order  1	Order of the Tribunal with signature  2	Office action with date and dated signature of parties when necessary.  3
<u>03</u> 23/03/2018	<p><b>For the Applicants</b> : Mr. Gourav Halder, Advocate.</p> <p><b>For the Respondent :</b> Mr. Goutam Pathak Banerjee, Advocate.</p> <p><i>The Counsel for the contemnor, Mr. Goutam Pathak Banerjee has undertaken to file vakalatnama by the next date on behalf of the contemnor. He has further submitted one copy of the order dated 29.12.2017 passed by the Principal Secretary, Finance Department in pursuance to the order dated 20.01.2017 passed in OA 158 of 215 and has submitted that they have complied with the order.</i></p> <p><i>On the other hand, the Counsel for the applicants, has submitted that though his clients had received the order but the said order is not fully complied with as the Court had already considered the ground of rejection of the contemnor / respondents in the OA 158 of 2015. In para 8 of the said order, this Tribunal observed inter alia :</i></p> <p style="text-align: center;"><b>“Having said this, we cannot be oblivious of the fact that if a promotee Staff Nurse Grade II on</b></p>	

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	<p style="text-align: center;"><b><i>completion of 10/16/25 years of service is not allowed to move to higher scales like a direct recruit rendering the same number of years of service, then there is, in reality, a discrimination between same group of employees having completed the same number of years of service in the same post. Such a situation appears to be unfair, anomalous and contrary to the provision of equal pay for equal work, more so in view of the recent judgment of the Hon'ble Supreme Court in Civil Appeal No. 213 of 2013 (State of Punjab &amp; ors. Vs. Jagjit Singh &amp; ors.) decided on 26.10.2016. While, therefore, we do not find anything wrong per se</i></b></p>	

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	<p><b><i>in the impugned order dated 13.06.2014, the same being in conformity with the materials on record and the provisions of the CAS/MCAS, we are of the view that a review of the position is absolutely necessary in order to remove the unfair discrimination within a group of employees holding the same post and rendering the same number of years of service in that post. We, therefore, direct the respondent authorities, particularly respondent no.3, the Principal Secretary, Finance Department to review the position having regard to the principles laid down in the judgment of the Hon'ble Supreme Court mentioned</i></b></p>	

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	<p style="text-align: center;"><b><i>hereinbefore, come to a decision within a period of 16 weeks from the date of communication of this judgment and intimate the same to the applicants immediately thereafter.”</i></b></p> <p><i>Therefore as per the applicants, this Tribunal had directed the respondents to review the position in the light of the principle laid down by the Hon’ble Apex Court in the case of State of Punjab &amp; ors. Vs. Jasjit Singh &amp; ors. as well as on the issue of removal of discrimination. But, after perusal of the order, no such consideration would be found. Therefore, the contemnors have not fully complied with the order.</i></p> <p><i>Heard the parties and perused the order dated 29.12.2017 passed by the Principal Secretary, Finance Department.</i></p> <p><i>After perusal of the order, we are agreeable with the contention of the applicants and in our opinion, our order has not been fully complied with. However, last chance is granted to the contemnor / respondents to comply with the order by way of passing a fresh order and communicate the same</i></p>	

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Rajat	<p><i>to the applicants within a period of six weeks and to file compliance report by the next date.</i></p> <p><i>Let the matter be listed on <b>13.06.2018</b> for orders.</i></p> <p><i>Plain copy.</i></p> <p><b>Dr. A. K. CHANDA</b> <b>MEMBER(A)</b></p> <p><b>URMITA DATTA (SEN)</b> <b>MEMBER(J)</b></p>	

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