

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

**The Hon'ble JUSTICE RANJIT KUMAR BAG**

**& The Hon'ble DR. SUBESH KUMAR DAS**

**Case No – MA 147 OF 2019 (OA 811 OF 2018)**

*Sarajit Pal & Others* Vs **The State of West Bengal & Ors.**

| Serial No. and<br>Date of order.<br>1 | Order of the Tribunal with signature<br>2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Office action with date<br>and dated signature<br>of parties when necessary<br>3 |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| 05<br><hr/> 30.09.2019                | <p><i>For the Applicants : Mr. K.K. Maiti,<br/>Learned Advocate.</i></p> <p><i>For the State Respondents : Mr. S.N. Ray,<br/>Learned Advocate.</i></p> <p><i>For the Pvt. Respondent : Mr. G.P. Banerjee,<br/>Mr. R.K. Mondal,<br/>Learned Advocates.</i></p> <p><i>For the Finance Department : Mr. M.N. Roy,<br/>Learned Advocate.</i></p> <p style="text-align: center;"><i>The applicants have prayed for direction upon the respondents not to grant promotion to the post of Lower Division Clerk from 10% quota of Group D employees on the basis of the gradation list published on May 27, 2019 till the disposal of the original application.</i></p> <p style="text-align: center;"><i>Mr. Maiti, Learned Counsel for the applicants submits that prejudice is caused to the applicants for inclusion of non-technical member of Group D post in the draft gradation list published on April 01, 2019 and in the finally published gradation list published on May 27, 2019. He further submits that sixty (60) vacancies in the cadre of Lower Division Clerk will be filled up by way of promotion from 10% quota of Group D employees in terms of Memorandum dated May 31, 2019 and the applicants will be deprived of the opportunity to be</i></p> |                                                                                  |

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*considered for promotion and as such the process of promotion initiated may be stayed till the disposal of the original application.*

*Mr. M.N. Roy, Learned Counsel representing the respondent no. 5 contends that the gradation list of the Group D employees has been published by inclusion of technical members in terms of the order passed by this Tribunal in OA 254 of 2014. Mr. G.P. Banerjee, Learned Counsel representing the private respondents also submits that the technical members have been included in the gradation list in terms of the order passed by this Tribunal in OA 254 of 2014 and as such the process of promotion initiated by the Department on the basis of the said gradation list cannot be stayed as contended on behalf of the applicants. Mr. S.N. Ray, Learned Counsel representing the state respondents has adopted the submission made by Mr. Banerjee.*

*Having heard Learned Counsel representing the respective parties, we find that the issue of inclusion of technical member in the gradation list of Group D employees has been settled by this Tribunal by delivery of judgment on July 21, 2015 in OA 254 of 2014. The Tribunal has observed in the judgment of OA 254 of 2014 that the persons cannot be deprived for consideration of promotion to the post of Lower Division Clerk only because they are technical staff working in Group D*

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*posts. Since the issue has already been decided by the Tribunal that there should not be any discrimination between technical and non technical members in Group D posts for grant of promotion to the post of Lower Division Clerk in 10% quota in terms of the Recruitment Rules and since the decision of the Tribunal has attained finality, we do not find any merit in the submission made on behalf of the applicants that the inclusion of the names of the persons holding the technical posts in Group D cadre has caused prejudice to the applicants. Moreover, it has not been pointed out by the applicants that they have been superseded by any of their juniors in Group D post by grant of promotion to the posts of Lower Division Clerk in 10% quota. Accordingly, we cannot persuade ourselves to stay the process of promotion initiated by the Department to fill up the posts of Lower Division Clerk from 10% quota of Group D employees in terms of the Recruitment Rules on the basis of the gradation list finally published on May 27, 2019. As a result, the Miscellaneous Application is dismissed.*

**( S.K.DAS )  
Member ( A )**

**( R.K.BAG )  
Member ( J )**

*H.S*