

ORDER SHEET
West Bengal Administrative Tribunal

Present.-
The Hon'ble Mrs. Urmita Datta (Sen)
&
The Hon'ble Dr. A. K. Chanda

Case No. **MA – 43 of 2018 arising out of 893 of 2016**

Ajoy Kumar Biswas

Versus

The State of West Bengal & Others.

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07 <u>07/05/2018</u>	<p><i>For the Applicant</i> : <i>Mr. Manujendra Narayan Roy, Advocate.</i></p> <p><i>For the State Respondents</i> : <i>Mr. Apurba Lal Basu, Advocate.</i></p> <p><i>For the Private Respondents</i> : <i>Mr. Masud Karim, Mr. Abdus Samad, Advocates.</i></p> <p style="text-align: center;"><i>The instant MA has been filed praying for following relief :</i></p> <p style="text-align: center;"><i>“(a) An order do issue directing the respondent authorities not to give any promotion to any incumbents to the post of Administrative Officer (AO) pending adjudication of the instant Original Application.”</i></p> <p><i>According to the applicant, vide memo no. 1708 dated 11/01/2017, the OSD & Ex-Officio Director of Agriculture, West Bengal issued one retirement notice falling due on 30/04/2018 and as a consequent thereof, the senior most Administrative Officer will resume the post of said</i></p>	

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	<p><i>retired person and since, the post of Administrative Officer is the next promotional post and during the pendency of the instant OA 893 of 2016, the applicant has been granted promotion to the post of Head Clerk, Grade I, though, not retrospectively as claimed by him, therefore, if the said post of Administrative Officer would be filled up in the meantime during the pendency of the OA 893 of 2016, the applicant will be prejudiced.</i></p> <p><i>In view of the above, the applicant has filed the instant MA.</i></p> <p><i>However, Mr. Apurba Lal Basu, the Counsel for the official respondents has submitted that no such process has been initiated for filling up of the promotional post of Administrative Officer till date. Therefore, the prayer in MA is premature. He has further stated that any interim order granted out of MA 43 of 2018 will cause prejudice to the respondents.</i></p> <p><i>Mr. Masud Karim appearing on behalf of the Counsel for the Private Respondent has submitted that the MA is not maintainable as principal relief claimed in the Original Application and the prayer made in the MA is not consequential. In the Original Application, the applicant has prayed for promotion</i></p>	

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	<p><i>to the post of Head Clerk Grade – I, which was granted during the pendency of Original Application, however, with prospective effect that has not been brought on record by the applicant. Official respondent authority has never initiated any process to fill up the post of Administrative Officer till date. Therefore no cause of action has arisen. According to the private respondent, presently, he is the senior most incumbent to the post of Head Clerk Grade – I.</i></p> <p><i>It is noted that as per the submission of respondents, no such process for filling up the post of Administrative Officer has been initiated till date and the main matter is ready for final hearing, therefore, the prayer made in the instant application is premature. Accordingly, the MA 43 of 2018 is disposed of.</i></p> <p><i>Since, pleadings are complete in this matter and all the parties are ready for hearing let the OA 893 of 2016 is listed for hearing on 02.07.2018 at 3.30PM as a Specially Fixed matter.</i></p> <p>Dr. A. K. CHANDA MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	

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