

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member(J).

Case No. - OA 111 of 2020

Ekramul Haque & Ors. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	: Mr. A.Roy Mukherjee, Mrs. S. Agarwal, Ld. Advocates.
<u>03</u> 06.01.2021	For the State Respondent	: Mr. S. Ghosh, Ld. Advocate.
	For the AG, WB	: Mr. B. Mitra, Deptt. Rep.

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

The affidavit of service filed by the applicants is kept on record.

The instant application has been filed mainly challenging the order dated 25.04.2018 and 27.06.2018, whereby the prayer of implementing CAS/MCAS in respect of the applicants has been turned down by the Deputy Secretary, Water Resources Investigation and Development Department on the ground that the applicants are enjoying scale no. 12, which is more than 3rd higher scale with reference to the basic scale of the post. Therefore, they are not entitled to get the benefit of 20 years' under CAS 1990 or 16 years' and 25 years' benefit under MCAS 2001. During the course of the hearing, the counsel for the applicants has drawn my attention to the order dated 04.04.2014 passed by the Hon'ble High Court, Calcutta in CPAN 1423 of 2003 arising out of CR No. 11202 (W) of 1981, wherein this issue was dealt with and still pending before the Hon'ble High Court.

However, during the course of the hearing, the counsel for the respondents has raised preliminary objection on the point of the maintainability of the application on the ground that since the issue is pending before the Hon'ble High Court, Calcutta in contempt proceeding, this Tribunal cannot entertain the OA.

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Heard the parties and peruse the records. It is noted that the Hon'ble High Court in their order dated 04.04.2014 has observed inter alia :

“..... If the benefits due to the petitioners in terms of the order dated March 25, 1991 do not reach the petitioners before the matter appears next and if there is no legal impediment cited in the benefits reaching the petitioners, appropriate orders, would be passed commensurate with the conduct and several officials may not be entitled to receive any financial benefits thereafter till the benefits conferred by the court order of March 25, 1991 are actually reached to the petitioners.”

I have gone through the impugned order dated 25.04.2018 and 27.06.2018, whereby the respondent had rejected the claim of the applicants on the ground that they have already getting higher scale. Therefore, as per the respondents CAS/MCAS is not applicable in this case. As the respondents have rejected the claim of the applicants, therefore, new cause of action has arisen and the instant OA is maintainable on this issue.

The respondents have raised another objection of limitation as the impugned orders were passed in the year 2018. Since both the impugned orders were passed in the year 2018, the application is preliminary barred by limitation. However, during the course of the hearing, the counsel for the applicants has prayed for some time to satisfy the court on the point of limitation. Prayer is allowed.

List the matter under the heading **“Admission Hearing”** on **19.02.2021.**

HS/SS

Mrs. URMITA DATTA (SEN)
MEMBER (J)