

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

Present.-  
The Hon'ble Justice Ranjit Kumar Bag  
&  
The Hon'ble Dr. Subesh Kumar Das

**Case No. OA 1133 of 2016**

Tripti Sarkar Mallick

Versus

The State of West Bengal & Ors.

Serial No. and date of order	Order of the Tribunal with signature	Office action with date and dated signature of parties when necessary.
1	2	3
13 <hr/> 19/09/2019	<p><b>For the Applicant</b> : Mr. A.K. Niyogi, Ld. Advocate.</p> <p><b>For the Respondent</b> : Mr. G.P. Banerjee, Ld. Advocate.</p> <p>The applicant has prayed for direction upon the respondents to give her pay protection in terms of the previous order dated May 12, 1995 after setting aside the order communicated under letter dated August 22, 2016 issued by the Special Secretary to the Government of West Bengal, Department of Finance (Law Cell), by which pay protection granted to the applicant earlier was cancelled.</p> <p>The applicant retired from the establishment of the Respondent No. 3, District Magistrate and Collector, Hooghly on December 31, 2007. The contention of the applicant is that she joined service as Lower Division Clerk in the scale of pay of ₹ 230/- - ₹ 425/- on March 29, 1971 and her pay was fixed at ₹ 225/- on November 07, 1976. On the other hand, the employees who joined in the post of Mohourrir on November 07, 1966 got their pay fixed at ₹ 380/- on November 07, 1976 by getting New Intermediate Selection Grade scale of pay of ₹ 370/- - ₹ 535/- by taking into consideration their previous service as</p>	

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	<p>Mohourrir before promotion to the post of L.D.C. It is contended on behalf of the applicant that pay protection was granted to the applicant on consideration of pay given to her juniors who got promotion from the post of Mohourrir to the post of L.D.C. and who also got further benefit of New Intermediate Selection Grade (N.I.S.G.) scale of pay w.e.f. November 07, 1976. The grant of N.I.S.G. scale of pay to the employees who got promotion from the post of Mohourrir to the post of L.D.C. and were juniors to the applicant in the Gradation List, was subsequently cancelled and as such the pay protection given to the applicant was also cancelled w.e.f. November 07, 1976. The order issued in this regard was communicated to the applicant by the Special Secretary to the Government of West Bengal, Department of Finance (Law Cell) on August 22, 2016, which is under challenge in the present application.</p> <p>Mr. A.K. Niyogi, Learned Counsel for the applicant submits that the pay protection granted to the applicant cannot be cancelled as the grant of N.I.S.G. scale of pay to the juniors of the applicant, who got promotion to the post of L.D.C. from the post of Mohourrir, has not been cancelled till date. He further submits that excess payment of salary has not</p>	

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	<p>been recovered from the juniors who got promotion to the post of L.D.C. and enjoyed N.I.S.G. scale of pay without rendering service for 10 (ten) years in the cadre of L.D.C. On the other hand, Mr. G.P. Banerjee, Learned Counsel representing the state respondents submits that the order of cancellation of pay protection of the applicant is justified under the Law, as grant of N.I.S.G. scale of pay to the juniors of the applicant, who got promotion to the post of L.D.C. from the post of Mohourrir has already been cancelled.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the impugned order conveyed under letter dated August 22, 2016 (annexure 'K' to the original application), we find that the N.I.S.G. scale of pay granted to the juniors of the applicant, who got promotion to the post of L.D.C. from the post of Mohourrir, was found to be wrong as the benefit of N.I.S.G. scale of pay was granted even when they did not render service for 10 (ten) years in the cadre of L.D.C. We further find from the letter dated August 22, 2016 that the benefit of pay protection was granted to the applicant only because her juniors got higher pay due to grant of N.I.S.G. wrongly and as such the order of pay protection of the</p>	

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Csm	<p>applicant w.e.f. November 07, 1976 was cancelled and communicated under the letter dated August 22, 2016, which is justified under the Law. In view of our above findings, we do not find any merit in the submission made on behalf of the applicant. As a result, the original application is <b>dismissed</b>.</p> <p>Let a <b>Plain Copy</b> of the order be supplied to both parties.</p> <p><b>S. K. DAS</b> <b>MEMBER(A)</b></p> <p><b>R. K. BAG</b> <b>MEMBER(J)</b></p>	