

ORDER SHEET
West Bengal Administrative Tribunal

Present.-

The Hon'ble Justice Ranjit Kumar Bag

&

The Hon'ble Dr. Subesh Kumar Das

Case No. OA 1219 of 2014

Nitish Chandra Das

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

18
07/08/2019

For the Applicant : Mr. A. Hati,
Ld. Advocate.

For the State Respondent : Mr. D. Koley,
Ld. Advocate.

The applicant has prayed for quashing of the order communicated to the applicant by the respondent no. 2 on February 22, 2013 (annexure 'B' to the original application).

The applicant previously approached this Tribunal by filing OA-769/2010 praying for pay protection on the ground that his junior Shibaprosad Ghosh was getting more pay than the applicant. On January 06, 2011, the Tribunal disposed of OA-769/2010 by directing the Principal Secretary to the Government of West Bengal, West Bengal Fire & Emergency Services to refer the matter of the applicant to the Finance Department for consideration of the case of the applicant for granting him benefit of pay protection under Rule 55 (4) of West Bengal Service Rule, Part I within stipulated period of time. On February 22, 2013 the applicant was intimated by the respondent no. 2 that his prayer for pay protection cannot be allowed by citing the example of stepping up of pay of Shibaprosad Ghosh, as the pay of Shri Ghosh was stepped up w.e.f. April 01, 1994 by

ORDER SHEET – (Continuation)

Form No.

Nitish Chandra Das
.....

Vs

The State of West Bengal & Others.
.....Case No. **OA 1219 of 2014**

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
	<p>treating his enhanced pay as personal to him. Now, the said order communicated under letter dated February 22, 2013 issued by the respondent no. 2 is under challenge in the present application.</p> <p>Mr. Hati, Learned Counsel for the applicant submits that the respondent no. 2 has communicated the cryptic order of rejection of prayer of the applicant for pay protection by annexing extract of note submitted by the Finance Department, Government of West Bengal. According to Mr. Hati, the said cryptic order of the respondent no. 2 is not in terms of the direction given by the Tribunal in OA-769/2010. He also submits that the order of respondent no. 2 is not supported by reasons and as such the order is liable to be set aside.</p> <p>We have heard Learned Counsel representing the state respondents who has supported the order issued by the respondent no. 2 in the form of a letter dated February 22, 2013.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the pay of the junior of the applicant was stepped up w.e.f. April 01, 1994 and that stepping up of pay is personal pay of the said junior Shibaprosad Ghosh as reflected in the extract</p>	

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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
Csm	<p>of the note of the Finance Department enclosed with the impugned letter dated February 22, 2013. Nothing is on record to indicate that the stepping up the pay of Shibaprosad Ghosh was not personal to him and as such we cannot persuade ourselves to hold that the rejection of prayer of the applicant for granting pay protection is unjustified under the law as contended on behalf of the applicant. We would like to point out that the applicant is not entitled to get benefit of pay parity by citing the example of the junior who is getting more pay due to stepping up of pay which is personal to him. Nor can we persuade ourselves to hold that the respondent No. 2 has not taken the decision in terms of the direction of the Tribunal in OA-769 of 2010. In view of our above observation, we are unable to accept the contention made on behalf of the applicant that the impugned order conveyed under letter dated February 22, 2013 is liable to be set aside. As a result, the original application is dismissed.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	