

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. **OA - 340 of 2017**

Rajib Kumar Banerjee

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.

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31/07/2019

For the Applicant : Mr. M.N. Roy,
Mr. G. Halder,
Ld. Advocates.

For the State Respondent : Mr. S.N. Ray,
Ld. Advocate.

**For the Pvt. Respondent
No. 4** : Mr. G.P. Banerjee,
Ld. Advocate.

The applicant has prayed for direction upon the respondents for granting him promotion to the post of Auditor after setting aside the order of promotion of the respondent no. 4 in the post of Auditor and other ancillary reliefs.

The applicant joined in the post of Lower Division Clerk (in short, L.D.C.) on February 03, 1990 in the regional establishment of Directorate of Agriculture, Government of West Bengal. He got promotion to the post Upper Division Clerk (in short, U.D.C.) on the basis of memorandum no. 341 dated June 12, 2009 issued by the Additional Director of Agriculture, (Administration), Government of West Bengal on June 12, 2009. The applicant submitted application in response to the notice dated January 18, 2017 issued

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	<p>by OSD & Ex-Officio Director of Agriculture, Government of West Bengal for filling up the post of Auditor in headquarters by way of promotion from the post of Accountant having graduate qualification. The grievance of the applicant is that the respondent no. 4 who is junior to the applicant in service was selected for joining the post of Auditor on promotion and thereby the respondent no. 4 superseded the applicant.</p> <p>With the above factual matrix, Mr. M.N. Roy, Learned Counsel for the applicant contends that no provisions are made in the recruitment rules for selection of the Accountant in the regional office of the Directorate of Agriculture, Government of West Bengal. He further submits that the respondent no. 4 was selected in the post of Accountant accidentally and thereby he got the benefit of being selected for the post of Auditor by way of promotion from the post of Accountant in the regional office of the Directorate of Agriculture, Government of West Bengal. On the other hand, Mr. S.N. Ray, Learned Counsel representing the state respondents submits that the applicant was not eligible for selection to the post of Auditor as he was not working in the post of Accountant in the regional office. Mr. G.P. Banerjee, Learned Counsel</p>	

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	<p>representing the private respondent no. 4 also submits that the applicant was not eligible for promotion to the post of Auditor as he was not discharging his duty as Accountant in the regional office.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the OSD and Ex-Officio Director of Agriculture, Government of West Bengal has jotted down the existing norms for promotion to the post of Auditor in the Directorate of Agriculture, Government of West Bengal by issuing one letter under memo no. 998 dated September 15, 2016 (annexure 'C' to the original application) by which OSD & Ex-Officio Director of Agriculture, Government of West Bengal had sought for administrative approval to fill up the post of Auditor by way of promotion. It appears from the said letter dated September 15, 2016 (annexure 'C' to the original application) that two vacant posts of Auditor can be filled up by way of promotion from two feeder posts – (1) Accountant in scale PB3, Grade Pay 3600/- in the regional set up of Directorate of Agriculture and (2) U.D.C. in scale PB3, Grade Pay 3600/- in the Headquarters of the Directorate of Agriculture, Government of West Bengal. Since the</p>	

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	<p>private respondent no. 4 and the present applicant were considered for promotion to the post of Auditor from the regional set up, we have to decide whether they were holding the post of Accountant in scale of pay PB3, Grade Pay 3600/-.</p> <p>By placing copy of order dated March 10, 2015 issued by the Deputy Director of Agriculture (Administration), Hooghly (annexure 'D' to the reply of the state respondents), it is contended on behalf of the state respondents that the private respondent no. 4 was promoted to the post of U.D.C. Cadre as designated Accountant w.e.f. October 01, 2014, though he joined the said post of Accountant in the forenoon of February 17, 2015. Nothing is on record to indicate that the applicant was designated as Accountant while he was working as U.D.C. in the regional office of the Directorate of Agriculture, Government of West Bengal. In the absence of production of any document to establish that the applicant was working as Accountant in the regional office, we cannot persuade ourselves to hold that the applicant acquired the eligibility for being considered for promotion to the post of Auditor in terms of the norms for grant of promotion to the post of Auditor reflected in the letter dated September 15, 2016 (annexure 'C' to the original application) issued by the OSD & Ex-Officio</p>	

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Csm	<p>Director of Agriculture, Government of West Bengal.</p> <p>It is pertinent to point out that the applicant has not challenged the norms for promotion to the post of Auditor reflected in the letter dated September 15, 2016 (annexure 'C' to the original application) issued by the OSD & Ex-Officio Director of Agriculture, Government of West Bengal. Nor has the applicant challenged the order of appointment of the respondent no. 4 as Accountant in the regional office of the Directorate of Agriculture on March 10, 2015 (annexure 'D' to the reply of the state respondents). Since the applicant did not acquire the eligibility for being considered for promotion to the post of Auditor, we cannot persuade ourselves to give any relief to the applicant in the present application. As a result, the original application is dismissed.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	