

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Urmita Datta (Sen) Member (J) & OA-482 of 2018  
 Hon'ble Dr. Anup Kumar Chanda, Member (A)

Asis Kumar Naskar Vs The State of West Bengal & Others.

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><u>02</u> 05.07.2018</p>	<p>For the applicant : Mr. Anindya Lahiri, Mr. Subit Kumar Mondal, Learned Advocates.</p> <p>For the respondent : Mr. Goutam Pathak Banerjee, Learned Advocate.</p> <p>For the Private Respondent : Mr. Dibyendu Narayan Roy, Mr. Sankha Ghosh, Mr. Biswarup Nandy, Learned Advocates.</p> <p>The instant original application has been listed today on mentioning made by the learned counsel for the applicant as well as order dated 29.06.2018 passed by the Bench consisting of Hon'ble Justice Mr. Ranjit Kumar Bag and Hon'ble Dr. Subesh Kumar Das. As per the counsel for the applicant in one original application being no. OA-526 of 2015, this Tribunal had passed order dated 06.06.2016 whereby following order has been passed :-</p> <p><i>“Having regard to the findings made in foregoing paragraph, we find merit in the application and accordingly we direct that the seniority of the applicant be restored by placing him</i></p>	

**ORDER SHEET**

Form No.

Asis Kumar Naskar

**Vs.****The State of West Bengal & Others.**

Case No. OA-482 of 2018

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 style="text-align: center;">02</p> <hr/> <p>05.07.2018</p> <p>Page /2</p>	<p style="text-align: center;"><i>above his immediate junior in the post of Assistant Engineer who was promoted to the post of Executive Engineer in terms of Notification dated 18.12.2007. The direction has to be complied with by issuing appropriate order within a period of 8 (eight) weeks from the date of communication of this order.</i></p> <p style="text-align: center;"><i>The application is accordingly disposed of. “</i></p> <p>The abovementioned order was subsequently affirmed by the Hon’ble High Court by their judgement dated 27.07.2017 passed in WPST No. 184 of 2016 (State of West Bengal &amp; Ors. Vs. Amit Kumar Sarkar &amp; Anr.). However, as per the counsel for the present applicant, the applicant was adversely affected by the subsequent gradation list and was not made party in the earlier OA, therefore, he preferred an OA being No. OA-302 of 2018 which was heard on 05.06.2018 and this Tribunal passed the following order :-</p>	

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<p style="text-align: center;">02</p> <hr/> <p>05.07.2018</p> <p style="text-align: left; margin-top: 100px;">Page /3</p>	<p>“In view of the above, the respondents are directed to maintain Status Quo, which will be abided by the outcome of the review petition being RVW 212 of 2017. In the meantime, both the respondents the Official Respondents and Private Respondent are directed to file reply by four weeks and rejoinder, if any, by two weeks thereafter.”</p> <p>In the meantime the applicant in the OA No. OA-526 of 2015, Mr. Amit Kumar Sarkar has filed one contempt application being No. CCP-78 of 2017, which was heard on 07.06.2018 observing inter alia :-</p> <p style="text-align: center;"><i>“The counsel for the contempt petitioner has submitted that the order has not been fully complied with though the respondent by their compliance report has tried to show that the said Shri Nityananda Khan who was immediate junior to the applicant has been lowered down to the seniority list of Assistant Engineer,</i></p>	

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Case No. OA-482 of 2018

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>02 05.07.2018</p> <p>Page / 4</p>	<p><i>but the issue of consideration of the case of the applicant for the purpose of promotion to the post of Executive Engineer with regard to the notification dated 18.12.2007 has not been complied. Therefore, there is not full compliance of the order.”</i></p> <p>However, as per the present applicant, since he feels aggrieved against the order, he has filed the instant original application for review of the order passed in the CCP-78 of 2017.</p> <p>The original application was initially listed before the Court No. 2 consisting of Hon’ble Justice Ranjit Kumar Bag and Hon’ble Dr. Subesh Kumar Das having determination of gradation list under code 5 and was taken up for admission hearing on 29.06.2018 and on the prayer of the applicant, the matter was released from the said Bench and the matter has been listed before this Bench.</p> <p>During the course of hearing, on the query made by the Bench, counsel for the applicant has</p>	



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<p>02</p> <p>-----</p> <p>05.07.2018</p> <p>Page / 6</p>	<p><i>seek reconsideration of the view taken in the earlier decision. The High Court, following, held that the assistants had the locus standi to move the application under Section 19 of the Act before the Tribunal and seek reconsideration of the earlier decision passed by it without notice to them and to show that the said order required reconsideration or that it was not a legal or a proper one. We see no reason not to accept the reasoning adopted by the High Court. “</i></p> <p>In Shivdeo Singh and Others Vs State of Punjab and Others reported in AIR 1963 Supreme Court 1909 paragraph stated interalia that :-</p> <p><i>“The other contention of Mr. Gopal Singh pertains to the second order of Khosla, J., which, in effect, reviews his prior order. Learned counsel contends that Art. 226 of the Constitution</i></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
<p>02</p> <p>-----</p> <p>05.07.2018</p> <p>Page/8</p>	<p><i>pointed out, it is precisely</i></p> <p><i>because they were not made</i></p> <p><i>parties to the previous proceedings,</i></p> <p><i>though their interests were sought to</i></p> <p><i>be affected by the decision of the High</i></p> <p><i>Court, that the second application</i></p> <p><i>was entertained by Khosla, J. “</i></p> <p>The counsel for the applicant has submitted that since the affected party cannot file any review, he has to challenge the said order by which he was affected but was not made party to that case, can file original application and hence he has filed the instant original application.</p> <p>However, the counsel for the private respondents (the applicant in the original application OA-526 of 2015) has vehemently opposed the admission of the instant original application. As per the counsel for the private respondent, the applicant cannot challenge the order passed in CCP as the concerned order has already been affirmed by the Hon'ble High Court and the review</p>	





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