

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

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

Case No. **OA-531 of 2013**

Bidyut Kumar Ghosh

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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11  
20/11/2019

**For the Applicant** : Mrs. S. Mitra,  
Ld. Advocate.

**For the State Respondent** : Mr. B.P. Roy,  
Ld. Advocate.

**For the P.S.C., W.B.** : Mr. A.L. Basu,  
Mr. S. Bhattacharya,  
Ld. Advocates.

The applicant has prayed for direction upon the respondents for grant of promotion to the applicant with retrospective effect from the date when his colleagues were granted promotion and all ancillary reliefs.

The applicant joined in the office of Sub-Registrar in the Directorate of Registration and Stamp Revenue, Government of West Bengal on June 07, 1983. He was confirmed in the service on December 14, 2000. The contention of the applicant is that he was denied promotion to the post of Additional District Sub-Registrar initially on the plea of pendency of the enquiry by the Vigilance Commission and subsequently on the plea of poor rating in the A.C.R. The applicant retired from service on April 30, 2013 without receiving any benefit of promotion in his entire career.

During pendency of the original application, the applicant filed Miscellaneous Application No. 110/2014 praying for grant of provisional pension and other

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	<p>retirement benefits after taking into consideration his qualifying service for more than 33 years. On December 09, 2014 this Tribunal passed an interim order in MA-110/2014, whereby the respondents were directed to release pension in favour of the applicant on the basis of last pay drawn by him and disburse other retirement benefits including the amount of General Provident Fund within specific period of 04 (four) months from the date of communication of the order. Mrs. Mitra, Learned Counsel for the applicant contends that the applicant has already received pension and other retirement benefits and as such the applicant is now pressing for grant of promotion which was denied to him in an unjustified manner during his entire service career.</p> <p>The state respondents have specifically stated in the reply that the promotion was denied to the applicant for recommendation of disciplinary proceeding against him under Memo No. CON190/4C-30/98 dated August 17, 1998 by the respondent no. 2. It has also been stated in the reply that the applicant was considered for promotion and his name was duly recommended along with his eligible colleagues to the Public Service Commission in the year 2004, 2005, 2009 and 2011, but the Public Service Commission did not recommend the name of the applicant for grant of promotion due to poor rating in the A.C.R. on all occasions from the year 2004 to 2011.</p>	

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	<p>The reply submitted by the Respondent Public Service Commission, West Bengal indicates that the bench mark for grant of promotion for the post of Sub-Registrar to the post of Additional District Sub-Registrar is rating of 2.00 in A.C.R. during last 5 years and the applicant was rated below 2.00 in A.C.R. of last 5 years on an average. The name of the applicant could not be recommended for promotion due to poor rating in his A.C.R. from the year 2004 to the year 2011.</p> <p>Since the applicant has already received the pension and other retirement benefits, the issues for consideration of the Tribunal are whether the applicant was denied promotion in an unjustified manner and whether he is entitled to get benefit of promotional post with effect from the date when promotion was lastly denied to him on September 09, 2011.</p> <p>Having heard Learned Counsel representing all the parties and on consideration of the materials on record, we find that the applicant was not initially granted promotion due to recommendation of disciplinary proceeding against him in the year 1998. The promotion was subsequently denied to the applicant during the period from 2004 to 2011 for poor rating in the A.C.R. It is well settled that promotion is not a matter of right of any government employee, but every government</p>	

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	<p>employee has a right to be considered for promotion. In the instant case, the applicant was considered for promotion at least four times along with his eligible colleagues during the period from 2004 to 2011, but he was not granted promotion due to poor rating in the A.C.R. The specific contention of Mrs. Mitra is that poor rating in the A.C.R. of the applicant was never communicated and as such the respondents should not have relied upon the poor rating in the A.C.R. of the applicant. On perusal of the pleading in paragraph 6(vi) of the original application, we find that the applicant has pleaded that promotion was denied to him due to his poor rating in A.C.R. Even the contents of the last representation submitted by the applicant for grant of promotion on December 19, 2012 (which was submitted only 04 (four) months before the date of his retirement) indicate that the applicant was aware that promotion was denied to him for poor rating in the A.C.R. Since the applicant had knowledge that the promotion was denied to him due to poor rating in his A.C.R. and since the applicant did not take any step either to know about the specific adverse entries made in the A.C.R. or to pray for review or upgradation of rating in the A.C.R., we are constrained to hold that the applicant has not been prejudiced even if the poor ratings in the A.C.R. were not officially communicated to him. We do not find any merit in the contention made by Mrs. Mitra that the applicant</p>	

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Csm	<p>should have been granted promotion without acting on the poor ratings in the A.C.R. which was not officially communicated to him, particularly when the applicant had full knowledge about the poor A.C.R. while he was in service.</p> <p>The applicant was repeatedly denied promotion during the period from 2004 to 2011 for poor rating in the A.C.R. Nothing is on record to indicate that the applicant ventilated his grievances about the poor rating in the A.C.R. or for upgradation of his ratings in the A.C.R. at any material point of time till the date of his retirement. Even the last representation dated December 19, 2012 annexed to the original application does not indicate any prayer of the applicant either for review of the entries in the A.C.R. or for upgradation of the poor rating in the A.C.R. The upshot of our above observation is that promotion was not denied to the applicant in an unjustified manner as contended by him.</p> <p>As a result, the original application is <b>dismissed</b>.</p> <p>The <b>Urgent Xerox Certified</b> copy of the order if applied for be given to either of the parties on priority basis after fulfillment of all necessary formalities.</p> <p style="text-align: center;"><b>S. K. DAS</b> <b>MEMBER(A)</b></p> <p style="text-align: center;"><b>R. K. BAG</b> <b>MEMBER(J)</b></p>	