

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

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

Case No. **OA-554 of 2016**

Biswanath Boral

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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19/02/2020

**For the Applicant** : Mr. S.N. Ray,  
Mr. P.K. Sanyal,  
Learned Advocates.

**For the State Respondent** : Mrs. M. Mallick,  
Learned Advocate.

The applicant has prayed for direction upon the respondents to give him benefit of pay protection at par with Private Respondent No. 5 and for refund of a sum of ₹ 50,894/- which was deducted from the retiring Gratuity of the applicant on the ground of excess payment of salary.

The applicant joined in the government service as Muharrir in the pay scale of 180-350/- on April 12, 1973. Subsequently, the applicant was re-designated as Lower Division Clerk w.e.f. July 01, 1989 in terms of the order dated May 27, 1998 issued by the Directorate of Irrigation & Waterways, Government of West Bengal. He retired from service as Upper Division Clerk on December 31, 2010. The grievance of the applicant is that the Private Respondent No. 5 got promotion as Upper Division Clerk after getting three benefits of Career Advancement Scheme on completion of 10 years, 20 years and 25 years of service, whereas the applicant received only two benefits of Career Advancement Scheme on completion of 10 years and 20 years of service and thereafter got promotion to the post of Upper Division Clerk. As a result, the Private Respondent being

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	<p>junior to the applicant in the service got higher salary and as such the applicant has prayed for pay protection at par with the Private Respondent No. 5. The applicant is also aggrieved for deduction of ₹ 50,894/- from his retiring Gratuity on the ground of excess payment of salary due to wrong fixation of pay while the applicant was in service.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the Judgment delivered by the Tribunal in ‘Jhunu Majumder &amp; Others v State of West Bengal &amp; Others’ (OA-1193/2013, OA-1194/2013 &amp; OA-1195/2013-all disposed of on March 18, 2016), we find that this Tribunal considered the issue of pay protection of ‘Jhunu Majumder &amp; Others’ at par with their junior Samar Kumar Chatterjee and gave direction to the state respondents to consider the case of ‘Jhunu Majumder &amp; Others’ at par with the respondent Samar Kumar Chatterjee and re-fix the pay and grant consequential benefits including the issue of refund to which ‘Jhunu Majumder &amp; Others’ were entitled. The present case is similar to the case of ‘Jhunu Majumder &amp; Others’ (Supra) and as such we are of the view that the state respondents will consider whether the applicant is similarly circumstanced with the applicants of ‘Jhunu Majumder &amp; Others’ and grant pay protection at par with the Private Respondent No. 5, if the applicant is found to be similarly circumstanced with ‘Jhunu</p>	

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Csm	<p>Majumder &amp; Others’.</p> <p>In view of our above findings, we direct the Respondent No. 2, Director of Personnel &amp; Ex-Officio Chief Engineer, Directorate of Irrigation &amp; Waterways to consider whether the applicant is similarly circumstanced with the applicants of ‘Jhunu Majumder &amp; Others’ (OA-1193/2013, OA-1194/2013 &amp; OA-1195/2013) (Supra) and grant pay protection to the applicant at par with the Private Respondent No. 5, if he is found to be similarly circumstanced with ‘Jhunu Majumder &amp; Others’ in (OA-1193/2013, OA-1194/2013 &amp; OA-1195/2013) (Supra) by passing a reasoned order within a period of 12 (twelve) weeks from the date of communication of the order. If the Respondent No. 2 comes to the conclusion that the applicant is entitled to get pay protection at par with the Private Respondent No. 5, he will take necessary steps for refixation of pay of the applicant and consider the issue of refund, if any, in favour of the applicant within a period of 08 (eight) weeks from the date of passing the reasoned order. With the above direction, the original application is <b>disposed of.</b></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>	