

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. **OA-558 of 2016**

Rabindra Nath Samui

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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14/02/2020

For the Applicant : Mr. S.N. Ray,
Ld. Advocate.

For the State Respondent : Mrs. S. Agarwal,
Ld. Advocate.

For the A.G., W.B. : Mr. B. Mitra,
Depttl. Representative.

The applicant has prayed for direction upon the respondents for granting him benefit of Career Advancement Scheme on completion of satisfactory service of 16 (sixteen) years after setting aside the compliance report submitted by the Contemnor/Principal Secretary to the Government of West Bengal, Department of Personnel & Administrative Reforms in CCP No. 68/2015 arising out of OA-1478/2011.

The applicant retired from service on March 31, 2009. He approached this Tribunal by filing OA-1478/2011 praying for direction upon the respondents to grant him benefit of Career Advancement Scheme on completion of satisfactory service of 16 (sixteen) years and for re-fixation of his pay in the pre-revised scale no. 18 and the consequential retirement benefits including pension. The said original application was disposed of by this Tribunal on April 29, 2014 by giving direction to the state respondents to reconsider the case of the applicant in the light of the Judgments of the Hon'ble Supreme Court referred to in the Judgment of the Tribunal by

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	<p>passing a reasoned order within specific period of time. The applicant filed contempt application being CCP No. 68/2015 alleging willful violation of the Judgment and order passed by the Tribunal on April 29, 2014 in OA-1478/2011. The compliance report was submitted in connection with the said contempt application (CCP No. 68/2015) by the Principal Secretary to the Government of West Bengal, Department of Personnel & Administrative Reforms. On February 15, 2016 the said contempt proceeding (CCP No. 68/2015) was dropped by accepting the compliance report by the Tribunal.</p> <p>With the above factual matrix, Mr. S.N. Ray, Learned Counsel for the applicant contends that the compliance report submitted by the Principal Secretary to the Government of West Bengal, Department of Personnel & Administrative Reforms in connection with CCP No. 68/2015 was not in accordance with the direction given by the Tribunal in OA-1478/2011. He further submits that the applicant has the right to ventilate his grievances before this Tribunal by filing separate original application praying for the same relief which was prayed before the Tribunal in OA-1478/2011 particularly when the applicant has prayed for additional relief of setting aside the compliance report submitted in connection with CCP No. 68/2015. On the other hand, Mrs. Agarwal, Learned Counsel representing the state respondents submits that the compliance</p>	

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	<p>report submitted in CCP No. 68/2015 was accepted by the Tribunal and as such the applicant cannot challenge the said compliance report by filing the present original application without any liberty granted in this regard by the Tribunal. We have also heard Mr. Mitra, the Departmental Representative of the Respondent A.G., W.B.</p> <p>Having heard all the parties and on consideration of the materials on record, we find that the applicant previously approached the Tribunal by filing OA-1478/2011 praying for grant of benefit of Career Advancement Scheme on completion of 16 (sixteen) years of service and for re-fixation of pay in the pre-revised scale no. 18 and consequential enhancement of retirement benefits including pension. The main grievance of the applicant in the said original application was that the ratings of the applicant in the Annual Confidential Report (in short, A.C.R.) were not communicated to him and thereby he was prejudiced for denial of benefit of Career Advancement Scheme on completion of 16 (sixteen) years of service and denial of benefit of pre-revised scale no. 18. By Judgment and order, the Tribunal disposed of OA-1478/2011 on April 29, 2014, whereby direction was given to the state respondents to reconsider the case of the applicant for granting benefit of Career Advancement Scheme in the light of the decisions of the Hon'ble Supreme Court</p>	

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	<p>referred to in the said Judgment within specific period of time. The Tribunal also gave direction to the state respondents to consider grant of pre-revised scale no. 18 to the applicant if affirmative decision is taken after reconsideration of A.C.R. of the applicant. Subsequently, the applicant filed contempt application being CCP No. 68/2015 for non-compliance of the direction given by the Tribunal in OA-1478/2011. Admittedly, the compliance report was submitted by the Principal Secretary to the Government of West Bengal, Department of Personnel & Administrative Reforms in connection with said CCP No. 68/2015 which was accepted by the Tribunal, which dropped the said contempt proceeding.</p> <p>The question for consideration of the Tribunal is whether the applicant has the right to challenge the said compliance report submitted in CCP No. 68/2015 by filing the present original application. On perusal of order dated February 15, 2016 passed in CCP No. 68/2015, we find that the compliance report of the Principal Secretary to the Government of West Bengal, Department of Personnel & Administrative Reforms was accepted by the Tribunal after consideration of the objections raised on behalf of the applicant. It is pertinent to point out that no liberty was given to the applicant to challenge the said compliance report by filing any subsequent original application before this</p>	

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	<p>Tribunal. Since the Tribunal accepted the compliance report after consideration of the objections raised on behalf of the applicant in CCP No. 68/2015, we are unable to accept the contention made by Mr. S.N. Ray, Learned Counsel for the applicant that the compliance report was not submitted in compliance with the direction given by the Tribunal in OA-1478/2011. Had the applicant been aggrieved for acceptance of the compliance report by the Tribunal in CCP No. 68/2015, the applicant should have ventilated his grievances by challenging the order of the Tribunal before the Division Bench of the Hon'ble High Court by filing appropriate Writ Application. Unfortunately, Writ Application was not filed by the applicant challenging the order of the Tribunal by which compliance report was accepted in connection with CCP No. 68/2015. Accordingly, we are of the view that the order of the Tribunal by way of acceptance of the compliance report in CCP No. 68/2015 has attained finality and the same is binding on the applicant and the state respondents in the absence of any liberty being granted to the applicant in the order of the contempt proceeding. The applicant is also estopped from challenging the said compliance report afresh by filing the present original application. It will not be out of place to mention that the issue of grant of benefit of Career Advancement Scheme to the applicant on completion of 16 (sixteen) years of service and the issue</p>	

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Csm	<p>of grant of pre-revised scale no. 18 were already adjudicated and finally decided in OA-1478/2011 and as such those issues cannot be raised again by the applicant in the present original application due to specific bar of the Principles of Res-Judicata.</p> <p>On consideration of the compliance report submitted by the Principal Secretary to the Government of West Bengal, Department of Personnel & Administrative Reforms in connection with CCP No. 68/2015, we find that the applicant was given opportunity of hearing for reconsideration of his ratings in the A.C.R. We also find that detailed reasons are given as to why pre-revised scale no. 18 could not be given to the applicant and why CAS benefit for completion of 16 (sixteen) years of service could not be given to the applicant for not attaining the benchmark in the ratings of the A.C.R. during the specific period.</p> <p>In view of our above observations, we do not find any merit in the present application and as such the present original application is dismissed.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	