

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble JUSTICE RANJIT KUMAR BAG
& The Hon'ble DR. SUBESH KUMAR DAS**

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;">20</p> <hr/> <p>09.08.2019</p>	<p style="text-align: center;">Case No – <u>OA 563 OF 2014</u></p> <p style="text-align: center;"><i>Mohasin Hasan Chowdhury Vs The State of West Bengal & Ors.</i></p> <p style="text-align: center;">Case No – <u>OA 565 OF 2014</u></p> <p style="text-align: center;"><i>Md Ruhul Amin Vs The State of West Bengal & Ors.</i></p> <p style="text-align: center;">Case No – <u>OA 566 OF 2014</u></p> <p style="text-align: center;"><i>Abdul Kashem Halder Vs The State of West Bengal & Ors.</i></p> <p><i>For the Applicant : Mrs. S. Mitra,</i> <i>(All the cases) Learned Advocate.</i></p> <p><i>For the State Respondents : Mr. M.N. Roy,</i> <i>(All the cases) Learned Advocate.</i></p> <p style="text-align: center;"><i>All three applicants have prayed for direction upon the respondents for granting them promotion to the post of Upper Division Clerk with effect from the year 1987 and release of benefit of service consequent to the said promotion.</i></p> <p style="text-align: center;"><i>The applicant of OA 563 of 2014 was selected for undergoing training for appointment to the post of Anchal Development Worker in terms of order dated August 30, 1973 issued by the District Magistrate, South 24 Parganas. The applicant of OA 565 of 2014 was also selected for undergoing training for appointment to the</i></p>	

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post of Anchal Development Worker on the basis of order dated January 18, 1974 issued by the District Magistrate, South 24 Parganas. Similarly the applicant of OA 566 of 2014 was selected for undergoing training for appointment to the post of Anchal Development Worker in terms of order dated September 28, 1973 issued by the District Magistrate, South 24 Parganas. Since all the applicants were appointed as Anchal Development Worker and since all of them prayed for promotion to the post of Upper Division Clerk after their retirement from service, we would like to dispose of all three original applications by this common order.

All the applicants joined in the post of Anchal Development Worker temporarily in the establishment of the District Magistrate, South 24 Parganas on October 09, 1974 in the scale of pay of Rs. 230-5-275-7½ -365-10-425/- plus usual allowances in terms of the order issued by the District Magistrate, South 24 Parganas. The District Magistrate, South 24 Parganas surrendered some posts including the posts of Anchal Development worker for creation of some other posts including the posts of Anchal Plan Worker in the same scale of pay in the month of April, 2000. Ultimately, all the applicants were appointed as Anchal Plan Workers in the same scale of pay of Rs. 230-5-275-7 ½ -365-10-425/- in different months in the year 2000. The applicant of OA 563 of

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2014 retired from service as Anchal Plan Worker on November 30, 2006 and the applicant of OA 565 of 2014 retired from service as Anchal Plan Worker on January 31, 2010 and the applicant of OA 566 of 2014 retired from service as Anchal Plan Worker on October 31, 2009. The contention of the applicants is that the employees who were junior to them in the service got promotion to the post of Upper Division Clerk with retrospective effect even after retirement, whereas the applicants have been deprived of the opportunity to get the promotion to the post of Upper Division Clerk with retrospective effect after their retirement from service.

Ms. S. Mitra, Learned Counsel representing the applicants has referred to the order dated December 29, 2010 issued by the District Magistrate, South 24 Parganas and submitted that the employees who were working as Lower Division Clerk and were junior to the applicants got promotion to the post of Upper Division Clerk even after their retirement from service and as such the case of the applicants should be considered for grant of promotion with retrospective effect even though the applicants retired from service. Per contra, Mr. M.N. Roy, Learned Counsel representing the state respondents submits that the order dated December 29, 2010 issued by the District Magistrate, South 24 Parganas cannot be involved by the applicants who had served all along as

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Anchal Plan Worker and retired from the said posts in due course.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that all the applicants retired from service as Anchal Plan Worker under District Magistrate, South 24 Parganas. By order dated December 29, 2010 issued by the District Magistrate, South 24 Parganas promotion was given to the employees who were working as Lower Division Clerk to the post of Upper Division Clerk even though some of those employees got the benefit of promotion after their retirement from service. Nothing is on record to indicate that the applicants were appointed as Lower Division Clerk at any material point of time in the office of the District Magistrate, South 24 Parganas. Since the applicants were never appointed as Lower Division Clerk and since the applicants never discharged their duty as Lower Division Clerk, they cannot claim the benefit of order of promotion issued by the District Magistrate, South 24 Parganas on December 29, 2010. It is pertinent to point out that the applicants have not disclosed the names of the employees who held the posts of Anchal Plan workers as junior of the applicants in the service. Nor have the applicants produced any seniority list or gradation list to establish that some of the employees who were junior to them either as Anchal Plan

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Worker or Anchal Development Worker in the District of 24 parganas have got the benefit of promotion by way of supersession of the applicants as alleged. In view of our above observation, we cannot persuade ourselves to give any direction to the respondents to consider the case of the applicants for grant of promotion in terms of order dated December 29, 2010 issued by the District Magistrate, South 24 Parganas.

As a result, all three original applications are dismissed.

Let a plain copy of the order be supplied to both parties.

**(S.K.DAS)
Member (A)**

**(R.K.BAG)
Member (J)**

H.S