

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

**The Hon'ble JUSTICE RANJIT KUMAR BAG**

**& The Hon'ble DR. SUBESH KUMAR DAS**

**Case No – OA 577 OF 2018**

*Pabitra Kumar Dutta* vs **The State of West Bengal & Ors.**

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;">04 <hr/>11.07.2019</p>	<p>For the Applicant : Mr. S. Bhattacharya, Learned Advocate.</p> <p>For the State Respondents : Mr. S. N. Ray, Learned Advocate.</p> <p>Supplementary application filed on behalf of the applicant today is kept on record.</p> <p>The applicant has prayed for direction upon the respondents for granting pay scale as admissible to Child Development Project Officer w.e.f. the date of taking over charge of the said post of Child Development Project Officer (in short CDPO).</p> <p>It appears from the materials on record that the applicant joined the post of Assistant Child Development Project Officer under the Directorate of Social Welfare, Government of West Bengal on promotion in scale of pay of Rs. 4500-150-5250-175-7000-200-8800-225-9700/- and other allowances as admissible from time to time in terms of order dated February 27, 2004 issued by the Director of Social Welfare, Government of West Bengal.</p>	

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The contention of the applicant is that he has been discharging the duties as Acting CDPO after taking over charge of CDPO on July 17, 2009 in terms of notification issued by the Joint Secretary to the Government of West Bengal, Department of Women & Child Development and Social Welfare. The grievance of the applicant is that he has been denied the scale of pay of CDPO inspite of discharging duties as Acting CDPO for last about ten years.

Learned Counsel appearing on behalf of the applicant has relied on judgment of the Hon'ble Supreme Court in "Arindam Chattopadhyay & others v State of West Bengal & others" (Civil Appeal no. 2521 of 2013 arising out of SLP (C) No. 7420 of 2012 decided on March 13, 2013) and submitted that the applicant is similarly circumstanced with the appellants of the un-reported case and as such the applicant is entitled to get scale of pay of the post of CDPO from the date of discharging duties of Acting CDPO. We have also heard Learned Counsel representing the state respondents.

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Having heard Learned Counsel representing both sides and on consideration of the materials on record, we find that the applicant has been discharging duties of Acting CDPO in terms of notification dated October 06, 2009 issued by the Joint Secretary to the Government of West Bengal, Department of Women & Child Development and Social Welfare. In the case of Arindam Chattopadhyay & others v State of West Bengal (Supra), the Hon'ble Supreme Court gave direction for granting scale of pay of CDPO to the Officers, who belonging to substantive cadre of CDPO, was discharging the duties as Acting CDPO for almost 14 years. It is relevant quote paragraph 13 of the judgment, which is as follows :

*“Reverting to the facts of this case, we find that although the appellants were recruited as ACDPOs, the State Government transferred and posted them to work as CDPOs in ICDS projects. If this would have been a stop gap arrangement for few months or the appellants had been given additional charge of the posts of CDPO for a fixed period, they could not have legitimately claimed salary in the scale of the higher post, i.e., CDPO. However, the fact of the matter is that as on the*

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*date of filing of the Original Application before the Tribunal, the appellants had continuously worked as CDPOs for almost 4 years and as on the date of filing of the writ petition, they had worked on the higher post for about 6 years. By now, they have worked as CDPOs for almost 14 years and discharged the duties of the higher post. It is neither the pleaded case of the respondents nor any material has been produced before this Court to show that the appellants have not been discharging the duties of the post of CDPO or the degree of their responsibility is different from other CDPOs. Rather, they have tacitly admitted that the appellants are working as full-fledged CDPOs since July, 1999. Therefore, there is no legal or other justification for denying them salary and allowances of the post of CDPO on the pretext that they have not been promoted in accordance with the Rules. The convening of the Promotion Committee or taking other steps for filling up the post of CDPO by promotion is not in the control of the appellants. Therefore, they cannot be penalised for the Government's failure to undertake the exercise of making regular promotions."*

Apparently, applicant is similarly circumstanced with the appellants of the case of "Arindam Chattopadhyay and others v State of West

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Bengal and others” (Supra) and as such the applicant is entitled to get benefit of scale of pay of the post of CDPO w.e.f. discharging the duties as Acting CDPO. However, the materials are not available on record to decide whether the applicant has been discharging the duties of Acting CDPO till date from the date of initial discharging of duties as Acting CDPO in terms of notification dated July 08, 2009. Accordingly, we are of the view that the respondent no. 1 should consider about entitlement of the applicant to get scale of pay and allowance.

In view of our above observation, the respondent no. 1, Principal Secretary to the Government of West Bengal, Department of Women and Child Development and Social Welfare is directed to consider the entitlement of the applicant to get scale of pay and allowance of the post of CDPO from the date of discharging the duties of Acting CDPO in terms of the judgment passed by the Hon’ble Supreme Court in “Arindam Chattopadhyay & others v State of West Bengal (Supra) on verification of

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record within a period of 12 (twelve) weeks from the date of communication of the order and take necessary steps in this regard within a period of 8 (eight) weeks thereafter.

With the above direction, the original application stands disposed of.

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

( S.K.DAS)  
Member ( A)

( R.K.BAG)  
Member (J)

*H.S*