

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

Hon'ble Justice Soumitra Pal, Hon'ble Chairman.
& Hon'ble Mr. P. Ramesh Kumar, Administrative Member.

Case No. OA 704 of 2015.

DINABANDHU MAJEE – VS- THE STATE OF W.B. & 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>13 29.8.2018.</p>	<p>For the Applicant : Mr. S. Mitra, Advocate.</p> <p>For the State Respondent : Mr. B.P. Roy, Advocate.</p> <p>In this application, the applicant has prayed for a direction upon the respondents to give him the benefit of regular appointment in the post of Panchayat Clerk from 28th December, 2001 when other similarly situated candidates were given appointments. Submission is though it is evident from the final result sheet that the applicant having secured 72.33 marks stood first, however, he was not given appointment. Rather the candidates below him that is serial number 2nd to 5th were appointed on 28th December, 2001 and on 6th March, 2002.</p> <p>It is submitted by Mrs. S. Mitra learned advocate for the applicant that the District Magistrate by memo dated 12th March, 2012 had admitted that there was no fault on the part of the applicant in his appointment in 2006. Submission is as the District Magistrate, Purulia is the appointing authority, appropriate order may be passed directing the Respondent authorities to treat him</p>	

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	<p>as being appointed as Panchayat Clerk from 28th December, 2001.</p> <p>Mr. B.P. Roy, learned advocate for the State Respondent submits that the applicant was appointed on contractual basis from 2003 and was ultimately appointed as Panchayat Clerk on 30th May, 2006 with effect from 24th May, 2006.</p> <p>Heard Mrs. Mitra and Mr. Roy. Since in spite of direction the respondents have not filed reply and therefore as the statements in the application remain uncontroverted ,the statements are deemed to be correct and have to be accepted.</p> <p>Admittedly, the applicant participated in the selection process for the post of Panchayat Clerk. It is evident from score sheets annexurd at pages 14 to 15 of the application that he stood first. Therefore, under normal circumstances, he should have been appointed prior to the other successful candidates. However, surprisingly the candidates below him were appointed on 28th December 2001 and on 6th March, 2002. The applicant was appointed in the year 2006. That there was no fault on the part of the applicant is evident from the memo dated 12th March, 2012 issued by the District</p>	

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	<p>Magistrate, Purulia to the Commissioner, Panchayat and Rural Development, West Bengal, being annexure "K" to the application, where it is recorded as under :-</p> <p><i>"..... Whereas, after three years from appointment of other four empanelled candidates, Sri Majee was appointed in the year 2004 on contract basis instead of regular basis and was regularized in the service vide No. 3193/PN/O/III/2A-5/02(I) dated 24.05.2006 of Department of Panchayat Rural Development with effect from 24.05.2006 though there was no fault on the part of the incumbent concerned.</i></p> <p><i>It is again pointed out that Sri Majee would have been appointed on regular basis with other four empanelled candidates since 2001 as he stood first in the merit list. This office is in dark about the reasons behind early appointment of other candidates superseding Sri Majee and delayed appointment of Majee in the year 2006.</i></p> <p><i>Hence, enclosing again 2nd prayer dated 10.01.2012 of Sri Majee with recommendation, I would like to request you either to consider the prayer of Sri Majee and to take up with the Govt. so that Sri Majee may get status of regular employee w.e.f. 28.12.2001, or</i></p>	

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	<p><i>to intimate this office on reasons behind delayed appointment in respect to Sri Majee.....”.</i></p> <p>Therefore, as the administration had admitted that the applicant had suffered for not being appointed in the year 2001 for no fault on his part , we direct the Commissioner , Panchayet and Rural Development, West Bengal and the District Magistrate, Purulia - respondent nos. 4 and 5 respectively , to treat the petitioner to have been deemed to be appointed on 28th December, 2001 and to give him the due seniority as per the merit list annexed to this application. The said date, that is 28th December, 2001, shall also be taken note of by the respondents for the purpose of counting the period of service of the applicant and also for the calculation of superannuation benefits and shall be incorporated in the service records. It is however made clear that no salary shall be paid to the applicant for the period from 28th December, 2001 till the date of his appointment as Panchayet Clerk since he did not work. The directions hereinabove shall be given effect to by the Commissioner, Panchayat and Rural Development, West Bengal and the District Magistrate, Purulia within ten weeks from the date of presentation of a copy of this</p>	

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Skg.	<p>order. Since evidently the District Magistrate , Purulia had held that there was no fault on the part of the applicant and as the Commissioner was directed by Memo dated 12th March, 2012 to intimate the District Magistrate, Purulia the reasons behind the delayed appointment in respect of the applicant, the District Magistrate, Purulia shall conduct an enquiry with the assistance of the Commissioner , Panchayat and Rural Development, West Bengal and shall conclude the same by filing a report before the Chief Secretary, Government of West Bengal within six months from the date of communication of this order and shall take suitable steps against the erring officials.</p> <p>(P. Ramesh Kumar) Member(A).</p> <p>(Soumitra Pal) Chairman.</p>	

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