

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

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

Case No. **OA - 780 of 2018**

*Asoke Kumar Bera*

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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03  
19/11/2018

**For the Applicant** : *Mr. A.K. Das Sinha,*  
*Ld. Advocate.*

**For the State Respondent :** *Mr. S. Ghosh,*  
*Ld. Advocate.*

*The applicant has prayed for direction upon the respondents to give him promotion to the post of Assistant Director of Micro, Small & Medium Enterprises/Manager of District Industries Centre w.e.f. March 03, 2016 on which date his junior Subhas Kanti Bhattacharyya got the promotion with all consequential benefits.*

*The applicant claims to have joined as Extension Officer (Industries) under the Respondent No. 2 on January 09, 1980. The contention of the applicant is that one Subhas Kanti Bhattacharyya was junior to him in the Merit List recommended by Public Service Commission, West Bengal for appointment to the post of Extension Officer (Industries). The further contention of the applicant is that he moved this Tribunal by filing OA-817/2017 praying for grant of promotion and the said OA-817/2017 was disposed of by this Tribunal by giving direction to the Respondent No. 3 to take a*

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	<p><i>decision in this matter by passing a reasoned order. On consideration of the reasoned order passed by the Respondent No. 3 on February 26, 2018, it appears that the Respondent No. 3 had doubt about actual Merit List prepared by Public Service Commission, West Bengal for recruitment to the post of Extension Officer (Industries) during the period of 1987-88 and thereby the said Respondent No. 3 decided to give benefit to the applicant by recommending his name for promotion to the post of Assistant Director of Micro, Small &amp; Medium Enterprises, West Bengal/Manager, District Industries Centre under Government of West Bengal.</i></p> <p><i>With the above factual matrix, Mr. Das Sinha, Learned Counsel for the applicant contends that the applicant will retire from service on November 30, 2018. He further submits that the applicant is entitled to get promotion with effect from the date on which his immediate junior Shri Subhas Kanti Bhattacharyya got the promotion to the post of Assistant Director of Micro, Small &amp; Medium Enterprises, West Bengal/Manager, District Industries Centre. On the other hand, Mr. Ghosh, Learned Counsel representing the state respondents submits that the name of the applicant has already been recommended for promotion on November 01, 2018 and he will get promotion in due course.</i></p>	

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	<p><i>Having heard Learned Counsel representing both parties and on consideration of the reasoned order passed by the Respondent No. 3 on February 26, 2018 we find that one Subhas Kanti Bhattacharyya was placed below the applicant in the list recommended by Public Service Commission, West Bengal for appointment to the post of Extension Officer (Industries) during the period of 1987-88. Since the Respondent No. 3 could not come to the conclusion whether the said recommendation of the Public Service Commission was on the basis of the Merit List and since the applicant did not get promotion, inspite of having no adverse report against him on record, the respondent no. 3 decided to recommend the name of the applicant for promotion. However, the date of giving effect to the said promotion has not been disclosed by the respondents till date. Admittedly, Subhas Kanti Bhattacharyya got the promotion w.e.f. March 03, 2016 (Annexure 'B' to the original application). Since there is nothing on record to deny the fact that the applicant was placed above Subhas Kanti Bhattacharyya in the list prepared by the Public Service Commission, West Bengal for recommendation of the names for appointment to the post of Extension Officer (Industries) at the initial stage, we are inclined to hold that the applicant should be</i></p>	

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	<p><i>given promotion w.e.f. March 03, 2016 on which date Subhas Kanti Bhattacharyya got promotion to the post of Assistant Director of Micro, Small &amp; Medium Enterprises/Manager, District Industries Centre, West Bengal.</i></p> <p><i>The admitted position is that the applicant did not work in the promotional post at any material point of time till date and as such the applicant is not entitled to get actual financial benefit of promotion w.e.f. March 03, 2016, though he is entitled to get the notional benefit of the said promotion till today i.e. November 19, 2018 and the actual financial benefit of promotion should be given on and from November 20, 2018. In view of our above findings, the Respondent No. 1, Secretary to the Government of West Bengal, Department of Micro, Small and Medium Enterprises and Textiles is directed to grant promotion to the applicant to the post of Assistant Director of Micro, Small &amp; Medium Enterprises, West Bengal/Manager, District Industries Centre w.e.f. March 03, 2016 on notional basis and to give the actual financial benefit of the said promotion w.e.f. November 20, 2018 by passing Order/Notification within a period of 1 (one) week from the date of communication of the order.</i></p>	

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Csm	<p><i>With the above direction the original application stands <b>disposed of</b>.</i></p> <p><i>Let a <b>Plain Copy</b> of the order be supplied to both parties on an <b>urgent</b> basis.</i></p> <p><b>S. K. DAS</b> <b>MEMBER(A)</b></p> <p><b>R. K. BAG</b> <b>MEMBER(J)</b></p>	

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