

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. **OA 901 of 2017**

Sumangal Dutta

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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06
14/03/2019

For the Applicant

: Mr. R. Halder,
Mr. T. Pal Chowdhury,
Ld. Advocates.

For the State Respondent : Mr. G.P. Banerjee,
Ld. Advocate.

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

The applicant has prayed for direction upon the respondents for cancellation of corrigendum dated March 03, 2016 issued by the Director of Health Services, West Bengal and recasting of seniority list published on February 02, 2016 under signature of Director of Health Services, West Bengal.

It appears from the materials on record that the applicant joined as Medical Technologist (Lab) on July 16, 1979 and retired from service on September 30, 2009. The contention of the applicant is that he was granted promotion from Grade III Medical Technologist to Grade II Medical Technologist long after 18 (eighteen) years of service, though he acquired eligibility for the said promotion after rendering 10 (ten) years of service as per recruitment rules. It is

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	<p>also contended on behalf of the applicant that he should have been granted promotion from Grade III Medical Technologist to Grade II Medical Technologist after rendering 10 (ten) years of service and also from Grade II Medical Technologist to Grade III Medical Technologist after rendering 10 (ten) years of service as per recruitment rules. On the other hand, Learned Counsel representing the state respondents submits that the case of the applicant could not be considered for promotion from Grade II Medical Technologist to Grade I Medical Technologist due to non-availability of vacancy in Grade I post while the applicant was in service and as such the wrong entries made in the order dated February 02, 2016 was subsequently rectified by issuance of corrigendum dated March 03, 2016.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the provisions of rules for recruitment to different posts under the cadre of Medical Technologists of West Bengal subordinate Health Services published under notification dated November 29, 2006 of the Department of Health & Family Welfare, Government of West Bengal we find that the Medical Technologist (Lab) working in Grade III post acquires eligibility for promotion to the post of</p>	

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	<p>Medical technologist (Laboratory) Grade II after rendering satisfactory service for 10 (ten) years and that Medical Technologist (Laboratory) and that a person working in the post of Medical technologist (Laboratory) Grade II acquires eligibility for promotion to the post of Medical Technologist (Lab) Grade I after rendering satisfactory service for 10 (ten) years. A person who acquires eligibility for promotion either from Grade III Medical Technologist to Grade II Medical Technologist or from Grade II Medical Technologist to Grade I Medical Technologist cannot be considered for promotion unless vacancy arises in the promotional post and the State Government decides to fill up the said promotional post in terms of the recruitment rules. The law is well settled that promotion is not a matter of right of any government employee, though consideration for promotion is a matter of right of any government employee. In the instant case, the applicant has miserably failed to establish that there was no vacancy in the promotional post which was filled up by a person who is junior to the applicant in the Gradation List. Naturally the applicant has failed to establish by placing materials on record that the applicant has not been considered for promotion when his junior was considered and granted promotion either in Grade II</p>	

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Csm	<p>Medical Technologist or in Grade I Medical Technologist. It is unfortunate that the applicant retired from service before arising of any vacancy in the promotional post of Grade I Medical Technologists and as such the question of consideration of the applicant for promotion to Grade I Medical Technologist does not arise at all. In view of our above observation, we are constrained to hold that the applicant is not entitled to get any relief in the present application.</p> <p>As a result, the original application is dismissed.</p> <p>Let a Plain Copy of the order be supplied to all the parties.</p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	