

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. **OA 934 of 2017**

Anita Dey

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.
1 <u>07</u> 28/03/2019	<p style="text-align: center;">2</p> <p>For the Applicant : Mrs. S. Mitra, Ld. Advocate.</p> <p>For the State Respondent : Mr. R.A. Chowdhury, Ld. Advocate.</p> <p>For the A.G., W.B. : Mr. B. Mitra, Depttl. Representative.</p> <p>The applicant has prayed for direction upon the respondents for granting benefit of Career Advancement Scheme in terms of G.O. No. 3015-F dated March 13, 2001 w.e.f. August 01, 2007 after setting aside orders dated September 29, 2008 and order dated August 13, 2013 issued by the Joint Secretary to the Government of West Bengal, Department of Women and Child Development and Social Welfare and Director of Social Welfare, Government of West Bengal, respectively.</p> <p>It appears from the materials on record that the applicant joined as Inspector of Social Welfare in scale no. 9 (Rs. 380-Rs. 910) on August 17, 1981 and got promotion to the post of C.D.P.O. in scale no. 14 (Rs. 1500-Rs.3410) on August 06, 1991. The applicant retired from service on February 29, 2012 by drawing salary in the pay-scale of Rs. 1640-Rs. 3635. The contention of the applicant is that the applicant was</p>	<p style="text-align: center;">3</p>

ORDER SHEET – (Continuation)

Form No.

Anita Dey
.....

Vs

The State of West Bengal & Others.
.....Case No. **OA 934 of 2017**

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>denied benefit of Modified Career Advancement Scheme of 2001 w.e.f. August 01, 2007 on completion of satisfactory service of 16 years. The further contention of the applicant is that the order passed by the Director of I.C.D.S., Government of West Bengal in connection with contempt application being CCP No. 232 of 2016 is not justified in terms of G.O. No. 3015-F dated March 13, 2001. Mrs. Mitra, Learned Counsel for the applicant contends that the applicant was granted promotion to the post of C.D.P.O. in scale no. 14 (Rs. 1500/- to Rs. 3410/-) before completion of 10 years of service, but the applicant is entitled to get benefit of MCAS in terms of G.O. of 2001 after completion of 16 years of service. She further submits that the promotional scale of Rs. 1500/- to Rs. 3410/- (scale no. 14) was subsequently revised to Rs. 1640/- to Rs. 3635/- by the order of the Hon'ble High Court which needs to be treated as the basic pay of the applicant in terms of memorandum no. 6075-F dated June 21, 1990. The gist of submission of Mrs. Mitra is that the applicant is entitled to get next higher scale in terms of Modified Career Advancement Scheme laid down in G.O. of 2001.</p> <p>Mr. Chowdhury, Learned Counsel representing the state respondents submits that the applicant not</p>	

ORDER SHEET – (Continuation)

Form No.

Anita Dey
.....

Vs

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.....Case No. **OA 934 of 2017**

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>only got promotion before completion of 10 years of service, but also got advancement of scale after getting promotion and as such she is not entitled to get benefit of Modified Career Advancement Scheme in terms of G.O. of 2001. The gist of submission of Mr. Chowdhury is that the applicant is granted higher pay-scale as per her entitlement. We have also heard Mr. Mitra, the Departmental Representative of the respondent, A.G., W.B.</p> <p>Having heard all the parties and on consideration of the materials on record, we find that the applicant got promotion to the post of C.D.P.O. in scale no. 14 (Rs. 1500/- to Rs. 3410/-) on August 06, 1991 before completion of 10 years of service. Naturally, the applicant is not entitled to get any benefit of Career Advancement Scheme for completion of 10 years of service in terms of memorandum no. 6075-F dated June 21, 1990 issued by the Finance Department, Audit Branch, Government of West Bengal. On perusal of the entries made in the copy of the Service Book of the applicant (which was produced by Learned Counsel for the applicant before the Bench), we find that the promotional scale of pay of the applicant i.e. scale no. 14 (Rs. 1500/- to Rs. 3410/-) was revised to higher pay-scale of Rs. 1640/-</p>	

ORDER SHEET – (Continuation)

Form No.

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.....Case No. **OA 934 of 2017**

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	<p>to Rs. 3635/- by the order of the Hon'ble High Court in C.O. 16210 (w) of 1988. The question for consideration of the Bench is whether the applicant is entitled to get benefit of Modified Career Advancement Scheme in terms of memorandum no. 3015-F dated March 13, 2001 issued by the Finance Department, Audit Branch, Government of West Bengal after advancement of scale of pay of the applicant by the direction of the Hon'ble High Court.</p> <p>The provisions of paragraph 2 (iv) of memorandum no. 3015-F dated March 13, 2001 lay down that the government employee who has got advancement of scale or promotion before completion of 16 years of service, is not entitled to get any other advancement of scale on completion of 16 years of service, but he is entitled for fixation benefit under Rule 42A(i) of West Bengal Service Rules, Part I on completion of 16 years of service. In the instant case, the entries made in the Service Book of the applicant unerringly point out that she got advancement of scale from Rs. 1500-Rs. 3410 to Rs. 1640/- to Rs. 3635/- in the year 1994 by the order of the Hon'ble High Court passed in C.O. 16210(w) of 1988 before completion of 16 years of service. The applicant is, thus, not entitled to get next higher scale in terms of</p>	

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	<p>Modified Career Advancement Scheme under memorandum no. 3015-F dated March 13, 2001. The only benefit to which the applicant is entitled is fixation of pay under Rule 42A(i) of W.B.S.R., Part I. The entries made in the Service Book of the applicant on March 11, 1994 indicates that additional notional increment of Rs. 55/- was given to the applicant for fixation of pay in higher pay-scale of Rs. 1640/- to Rs. 3635/-. In view of our above observation, we do not find any merit in the submission made on behalf of the applicant about entitlement of the applicant to get another higher scale of pay by way of benefit of Modified Career Advancement Scheme in terms of memorandum no. 3015-F dated March 13, 2001.</p> <p>With regard to the submission of Mrs. Mitra that the higher scale of pay granted to the applicant in compliance with the direction given by the Hon'ble High Court must be treated as the basic scale of the applicant for advancement of the scale in terms of memorandum no. 6075-F dated June 21, 1990, we would like to hold that even if the higher scale granted to the applicant by the order of the Hon'ble High Court is treated not as personal pay of the applicant, but as basic scale of the applicant, the said higher scale of pay is, no doubt, advancement of scale of the</p>	

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Csm	<p>applicant before completion of 16 years of service and as such the applicant is not entitled to get the benefit of Modified Career Advancement Scheme in terms of memorandum no. 3015-F dated March 13, 2001. The natural corollary of our above observation is that the orders dated September 29, 2008 issued by the Joint Secretary to the Government of West Bengal, Department of Women and Child Development and Social Welfare and order dated August 13, 2013 issued by the Director of Social Welfare, Government of West Bengal are justified under the Law. Accordingly, the applicant is not entitled to get any relief in the present application. As a result, the present application is dismissed.</p> <p>Let urgent Xerox Certified Copy of the order, if applied for, be supplied to both parties on priority basis, subject to fulfillment of all legal formalities.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	