

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. **OA-958 of 2014**

Gobinda Lal Bandopadhyay

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

2

3

18
16/04/2019

For the Applicant : Mr. A.L. Basu,
Ld. Advocate.

For the State Respondent : N O N E.

The applicant has prayed for direction upon the respondents for grant of higher scale of pay which was allowed to his immediate junior in the promotion policy laid down in G.O. dated March 12, 2009 issued by the Public Works Department, Government of West Bengal after setting aside the order of the Chief Engineer (Headquarters), Public Works Department communicated to the applicant under letter dated July 17, 2014 (annexure 'D' to the original application).

The applicant joined in the post of Assistant Engineer, Public Works Department, Government of West Bengal on March 31, 1983 and confirmed in the service on November 18, 1997. He retired from service on August 31, 2003. The contention of the applicant is that 47 directly recruited Assistant Engineers got the benefit of higher scale of pay from the date from which their juniors got the said scale of pay in terms of G.O. dated March 13, 2009 issued by the Public Works

ORDER SHEET – (Continuation)

Form No.

Gobinda Lal Bandopadhyay
.....

Vs

The State of West Bengal & Others.
.....Case No. **OA-958 of 2014**

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>Department, Government of West Bengal (annexure 'A' to the original application). The further contention of the applicant is that the grant of higher pay scale was subsequently limited to 44 directly recruited Assistant Engineers w.e.f. the date which was notified in the G.O. dated March 22, 2010 issued by the Public Works Department, Government of West Bengal. One Sekhar Majumdar whose name appears in serial no 31 of the list enclosed to the G.O. dated March 22, 2010 got benefit of higher scale of pay notionally w.e.f. May 16, 1992, while actual financial benefit was given w.e.f. January 09, 2004. Mr. A.L. Basu, Learned Counsel for the applicant submits that Sekhar Majumdar who got higher scale of pay in terms of G.O. dated March 12, 2009 being clarified by G.O. dated March 22, 2010 is junior to the present applicant in as much as the applicant joined in the post of Assistant Engineer on March 31, 1983 and Sekhar Majumdar joined in the post of Assistant Engineer on May 05, 1986. He further submits that the reasoned order under challenge in the present application was not passed by the Chief Engineer in compliance with the direction given by the Tribunal on February 28, 2014 in OA-1358/2013. Mr. Basu has also urged this Bench to consider that the reasoned order is a cryptic one and as such the same is liable to be set aside.</p>	

ORDER SHEET – (Continuation)

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Gobinda Lal Bandopadhyay
.....

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The State of West Bengal & Others.
.....Case No. **OA-958 of 2014**

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>None appears on behalf of the state respondents, though the state respondents filed one reply supporting the reasoned order passed by the Chief Engineer (Headquarters), Public Works Department, Government of West Bengal.</p> <p>The first issue for consideration of the Tribunal is whether the applicant is entitled to get higher scale of pay w.e.f. the date on which his junior Sekhar Majumdar got higher scale of pay. It is relevant to point out that the applicant previously approached this Tribunal by filing OA-1358/2013 praying for grant of higher scale of pay in terms of G.O. dated March 12, 2009 issued by the Public Works Department, Government of West Bengal. On February 28, 2014, the Tribunal disposed of OA-1358/2013 by directing Chief Engineer, Public Works Department, Government of West Bengal to consider whether the applicant is entitled to get higher scale of pay in terms of G.O. dated March 12, 2009 within stipulated period of time. On consideration of the said G.O. dated March 12, 2009 (annexure 'A' to the original application) we find that 47 directly recruited Assistant Engineers of Public Works Department, Government of West Bengal were given higher scale of</p>	

ORDER SHEET – (Continuation)

Form No.

Gobinda Lal Bandopadhyay
.....

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The State of West Bengal & Others.
.....Case No. **OA-958 of 2014**

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	<p>pay w.e.f. the date on which their juniors got the said scale of pay on fulfillment of the following conditions: (i) the higher scale of pay must fall within the ratio of 60:40 of total number of Assistant Engineers of the Department, (ii) the claimants must complete six years of service, (iii) the claimants must pass the Departmental Examination. The said financial benefit was given in terms of the orders passed by the Tribunal in three different original applications between the period from October 11, 1996 to March 24, 2006.</p> <p>However, subsequently, the number of Assistant Engineers who got the said financial benefit was reduced to 44 in the G.O. dated March 22, 2010, though the conditions for grant of higher scale of pay were not changed. No information is forthcoming before us by placing Gradation List or Seniority List officially published by the Public Works Department, Government of West Bengal to establish that Sekhar Majumdar who is alleged to be the junior of the applicant was really placed below the applicant in the said Gradation List or the Seniority List. Nor is there any information forthcoming before us when the applicant passed the departmental examination and when Sekhar Majumdar passed the departmental</p>	

ORDER SHEET – (Continuation)

Form No.

Gobinda Lal Bandopadhyay
.....

Vs

The State of West Bengal & Others.
.....Case No. **OA-958 of 2014**

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	<p>examination which is one of the conditions for grant of higher scale of pay in terms of G.O. dated March 12, 2009. Moreover, the alleged junior Sekhar Majumdar got actual financial benefit of higher scale of pay w.e.f. January 01, 2004, while he was in service, whereas the applicant retired from service on August 31, 2003. In view of our above observation, we cannot persuade ourselves to hold that the applicant is entitled to get higher scale of pay in terms of G.O. dated March 12, 2009 being clarified by G.O. dated March 22, 2010.</p> <p>The next issue for our determination is whether the reasoned order under challenge in the present application is liable to be set aside. On perusal of the reasoned order communicated under letter dated July 17, 2014, we find that the G.O. dated March 12, 2009 was issued almost after six years after retirement of the applicant from service. A retired person cannot claim seniority over another government employee in service. Since the applicant was not in service when benefit of higher scale of pay was given to his alleged junior Sekhar Majumdar in terms of G.O. dated March 12, 2009 being clarified by G.O. dated March 22, 2010, the question of granting higher scale of pay to the applicant in terms of G.O. dated March 12, 2009 was rightly turned down by the Chief Engineer, Public</p>	

ORDER SHEET – (Continuation)

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Csm	<p>Works Department, Government of West Bengal. We do not find any illegality or arbitrariness in the reasoned order which is under challenge 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 the applicant.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	