

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

**The Hon'ble Justice Ranjit Kumar Bag  
& The Hon'ble Subesh Kumar Das**

**Case No – OA-581 of 2016**

**Sudhansu Sekhar Mondal & Others –v- The State of West Bengal & 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>10 26.06.2019</p>	<p>For the Applicants : Mrs. S. Mitra, Learned Advocate.</p> <p>For the Respondents : Mr. S. Bhattacharyya, Departmental Representative.</p> <p>For A.G. (A &amp; E), W.B. : Mr. B. Mitra, Departmental Representative.</p> <p>The applicants have prayed for direction upon the respondents for refixation of their pay scale in the promotional post of Additional Supervisory Head Clerk in the establishment of District Magistrate and Collector, Bankura in terms of order of promotion dated December 27, 2013 issued by the District Magistrate, Bankura (annexure C to the original application).</p> <p>Mrs. Mitra, Learned Counsel for the applicants submits on instruction from her clients that the applicant No. 1 is not willing to proceed with the hearing of this case. Accordingly, the original application stands dismissed as not pressed, so far as prayer of the applicant No. 1 is concerned.</p> <p>The other 2 (two) applicants – Sasti Charan Bhakat and Pradip Kumar Rajak got promotion on provisional basis to the post of Additional Supervisory Head Clerk from the post of Upper Division Clerk (UDC) in the establishment of the respondent No. 2 by virtue of order No. 331/2013 dated December 27, 2013 issued by the respondent No. 2. The applicant No. 2 got promotion to the post</p>	

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	<p>of Additional Supervisory Head Clerk on October 1, 2013 and retired from service on November 30, 2015 and the applicant No. 3 got promotion to the post of Additional Supervisory Head Clerk on April 1, 2013 and retired from service on January 31, 2016. The contention of the applicants is that they have not been granted pay scale of the promotional post of Additional Supervisory Head Clerk with effect from the date of their promotion. The further contention of the applicants is that they discharged their duty as Additional Supervisory Head Clerk in the establishment of the respondent No. 2 till the date of their superannuation, and as such they are entitled to get the financial benefit of the said promotional post.</p> <p>With the above factual matrix, Mrs. Mitra, Learned Counsel for the applicants contends that the applicants have the right to get their pay fixed in the pay scale of the promotional post of Additional Supervisory Head Clerk in terms of the promotion granted to them on December 27, 2013. On the other hand, Mr. Bhattacharyya, the authorised representative of the State respondents has relied on order No. 5/2014 dated January 24, 2014 issued by the respondent No. 2 (annexure R-1 to the reply filed by the State respondents) and submitted that the provisional order of promotion granted to the applicants, subject to the approval of the Finance Department, was cancelled in terms of Memorandums issued by the Finance Department and Department of Land and Land Reforms, Government of West Bengal. He further submits that the order of cancellation of promotion was duly communicated to all the applicants including applicant No. 1</p>	

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	<p>who had put his signature at the time of receiving copy of the order of cancellation of promotion on January 28, 2014. Mr. Bhattacharyya further argues that the applicants were well aware of the fact of cancellation of promotion as they received salary in the pay scale attached to the post of UDC till the date of their retirement from service.</p> <p>Having heard Learned Counsel for the applicants and the authorised representative of the State respondents and on consideration of the materials on record, we find that the respondent No. 2 granted promotion to the applicants in the post of Additional Supervisory Head Clerk on purely provisional basis, subject to approval of the Finance Department, Government of West Bengal. Subsequently, the respondent No. 2 had to consider the Memorandums issued by the Finance Department, Government of West Bengal and Memorandums issued by the Department of Land and Land Reforms, Government of West Bengal for cancellation of provisional promotion granted to the applicants. Since the initial order of promotion was granted on purely provisional basis, subject to approval of the Finance Department, Government of West Bengal, the subsequent order of cancellation of promotion of the applicants by the respondent No. 2 in terms of Memorandums issued by the Finance Department and Land and Land Reforms Department on January 24, 2014 is justified under the law. We do not find any illegality or arbitrariness in issuing the order of cancellation of promotion of the applicants, as the previous order of promotion was purely on provisional basis and subject to approval of the Finance</p>	

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