

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

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

Case No –OA 1138 OF 2015

Mrityunjoy Gangopadhyay Vs 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>12 19.11.2018</p>	<p>For the Applicant : Mrs. S. Agarwal, Learned Advocate.</p> <p>For the Respondents: Mr. S. Ghosh, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for giving benefit of Career Advancement Scheme (CAS) and promotion to the post of Agricultural Assistant for serving more than 24 years under Government of West Bengal.</p> <p>The applicant claims to have joined as Laboratory Assistant on November 1, 1990 under the Directorate of Cinchona and other Medicinal Plants, Government of West Bengal. He got the benefit of CAS on November 1, 2000 after completion of 10 years of service for not getting any promotion. The applicant also got next benefit of CAS on November 1, 2006 after completion of 16 years of service for not getting any promotion in the mean time.</p> <p>With the above factual matrix, Mrs. Agarwal, Learned Counsel for the applicant contends that the applicant is entitled to get benefit of CAS or promotion to the post of Agricultural Assistant under the Rules notified on February 4, 2013 (annexure E to the original application). Mr. Ghosh, Learned Counsel representing the State respondents submits on the basis of reply given by the State respondents that the Rules published under Notification dated February 4, 2013 have not been given effect at any material point of time and the proposal for modification of the said Rules is</p>	

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	<p>pending and no one has got promotion under the said Rules till date.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the fact that the applicant retired from service before completion of 25 years of service, he is not entitled to get benefit of last CAS, which he would have been entitled had he completed 25 years of service. It appears from order dated January 4, 2013 issued by the Deputy Secretary to the Government of West Bengal, Department of Food Processing Industries and Horticulture that the service of the applicant was temporarily placed at the Administrative Control of Directorate of Food Processing Industries from the Directorate of Cinchona and other Medicinal Plants, West Bengal, subject to the condition that the applicant will draw salary from the parent Establishment. The Rules notified on February 2, 2013 by the Department of Food Processing Industries and Horticulture prescribe the mode of direct recruitment or promotion for filling up the post of Agricultural Assistant. The State Respondents have not yet decided whether the posts of Agricultural Assistants will be filled up by direct recruitment or promotion. This decision is to be taken up on the basis of policy of the State Government. The Tribunal can interpret the law, but cannot expound the policy, which lies within the domain of the Executive Wing of the State. Since the applicant got two benefits of CAS for not getting promotion from the post of Laboratory Assistant and since the State Respondents have not yet taken any decision to fill up the posts of Agricultural Assistant only</p>	

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Rajib	<p>by promotion, we are of the view that no right is accrued in favour of the applicant for claiming promotion to the post of Agricultural Assistant on the basis of Rules notified on February 2, 2013 by the Department of Food Processing Industries and Horticulture, Government of West Bengal. Moreover, no one junior to the applicant has got promotion under the said Rules published on February 4, 2013 till date. So, the applicant is not entitled to be considered for promotion as prayed for, particularly when he enjoyed the benefit of CAS in lieu of promotion.</p> <p>With the above observation, the present application is dismissed.</p> <p>Let a plain copy of the order be supplied to both parties.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	

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