

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

**Case No – OA 472 OF 2016**

Arunangshu Roy v/s 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
9 29.11.2018	<p>For the Applicant : Mr. S. N. Ray, Learned Advocate.</p> <p>For the Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for determination of interse seniority of the applicant in the post of Pharmacist and fixation of pay of the applicant with effect from the date of his appointment on contractual basis on December 12, 2003 and disposing of the representation submitted by the applicant for fixation of interse seniority on November 24, 2015 and other ancillary reliefs.</p> <p>The contention of the applicant is that he joined in the post of Pharmacist on contractual basis on December 12, 2003. The service of the applicant was regularised in the post of Pharmacist w.e.f. May 17, 2007 by order dated August 8, 2007 issued by the Chief Medical Officer of Health, North 24 Parganas. The service of the applicant in the post of Pharmacist was confirmed by order dated November 16, 2011 issued by the</p>	

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Chief Medical Officer of Health, North 24 Parganas.

With the above factual matrix, Mr. S.N. Ray, Learned Counsel for the applicant has relied upon order dated February 3, 2016 passed by this Tribunal in OA 926 of 2015 in the case of “A.S. Mondal V. State of West Bengal and Others” and submitted that this Tribunal has already given direction to the Director of Health Services, Government of West Bengal to consider the representation submitted by one Pharmacist – A.S. Mondal for fixation of interse seniority within stipulated period of time. He further submits that the applicant is entitled to get the benefit of service rendered by him as contractual employee before his regularisation in the post of Pharmacist. On the other hand, Mr. S. Ghosh, Learned Counsel representing the State respondents submits that the contractual employment can never be counted for seniority or benefit of service. He also submits that interse seniority of the Pharmacists will be prepared in due course.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant was appointed on contractual basis during the period from December 12, 2003 till the date of regularisation on May 17, 2007. The terms and conditions of contractual employment of the applicant are not forthcoming before the Tribunal, as the copy of the said appointment letter is not annexed to the original

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application. It is well-settled that the contractual service rendered by any Government employee cannot be counted for seniority or any other benefit of service after regularisation of service of the said employee in permanent post. Accordingly, we are of the view that the applicant is not entitled to get benefit of either fixation of pay or seniority or counting of past service before his regularisation in the post of Pharmacist w.e.f. May 17, 2007.

With regard to direction to the respondents for fixation of interse seniority of the applicant in the post of Pharmacist, we are of the view that the applicant has not placed on record the list of the Pharmacists appointed by the respective appointing authority till date. Moreover, the Tribunal has already given direction to the Director of Health Service on February 3, 2016 in OA 926 of 2015 for fixation of interse seniority of the Pharmacists, and as such no further direction in this regard is necessary. The representation submitted by the applicant before the Director of Health Services, Government of West Bengal on November 24, 2015 should have been submitted through proper channel for consideration of the said representation by the Director of Health Service, Government of West Bengal. In the absence of submission of such representation by the applicant to the higher authority through proper channel, the said representation should not be considered in accordance with law.

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However, we are of the view that there is need of preparation of gradation list of the Pharmacists working under Director of Health Service, Government of West Bengal. Accordingly, we direct respondent no. 2, Director of Health Service, Government of West Bengal to take steps for preparation of gradation list of the Pharmacists and publish the same within a period of sixteen weeks from the date of communication of the order.

With the above direction, the original application stands **disposed of.**

**( S.K. DAS )**  
**MEMBER(A)**

**( R. K. BAG )**  
**MEMBER (J)**

Rajib

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