

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

**Case No – OA 517 of 2016**

Reba Sarkar 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
17 04.03.2020	<p>For the Applicant : Mr. M.N. Roy, Mr. B. Nandy, Mr. G. Halder, Learned Advocates.</p> <p>For the State Respondent : Mrs. S. Agarwal, Learned Advocate.</p> <p>For the Pvt. Respondent : Mr. G.P. Banerjee, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for granting her promotion to the post of Assistant Director of Health Services (in short, ADHS) (Nursing) with effect from the date when the private respondent was granted promotion to the post of ADHS (Nursing) and other consequential reliefs.</p> <p>The applicant joined in the post of Sister Grade I (II) of West Bengal Nursing Service Cadre in terms of the order dated May 26, 1998 issued by the Director of Health Services, Government of West Bengal. She got promotion to the post of Grade I (i) (b) of West Bengal Nursing Service in terms of the recommendation made by the Public Service Commission, West Bengal on August 7, 2001. She also got promotion to the post of Grade I (i) (a) of West Bengal Nursing Service in terms of the Notification dated August 29, 2002 issued by the Department of Health and Family Welfare, Government of West Bengal. The applicant was</p>	

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appointed in the post of Deputy Assistant Director of Health Services (Nursing) in the Grade I(i) (a) of West Bengal Nursing Service in terms of the Notification dated November 22, 2007 issued by the Assistant Secretary to the Government of West Bengal, Department of Health and Family Welfare. The grievance of the applicant is that she was not granted promotion to the post of ADHS (Nursing), though the private respondent got promotion to the post of ADHS (Nursing) from the post of Deputy Assistant Director of Health Services (Nursing) on July 10, 2015 being junior to the applicant all along in the service.

With the above factual matrix, Learned Counsel for the applicant contends that the applicant is senior to the private respondent in West Bengal Nursing Service, but she was superseded by the private respondent at the time of granting promotion from the post of Deputy Assistant Director of Health Services (Nursing) to the post of ADHS (Nursing) without assigning any reason. Learned Counsel specifically contends that the seniority of the applicant cannot be given go by for granting promotion from the post of Deputy Assistant Director of Health Services (Nursing) to the post of ADHS (Nursing). On the other hand, Learned Counsel representing the State respondents has relied on paragraph 9 of the reply and submitted that the applicant was considered along with the private respondent for granting promotion to the post of ADHS (Nursing), but the private respondent was granted promotion in

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the year 2015 due to her rating in the ACR as 3.54, whereas the rating of the applicant in the ACR was 2.12.

We have also heard Learned Counsel for the private respondent.

Having heard Learned Counsel for the respective parties and on consideration of the materials on record, we find that the applicant was all along senior to the private respondent in West Bengal Nursing Service. The reply of the State respondents indicates that the rating of the applicant in the ACR was 2.12 , whereas the rating of the private respondent in the ACR was 3.54 and as such promotion was granted to the private respondent in the post of ADHS (Nursing) in the year 2015. The applicant has not made out any case, either in the original application or in the rejoinder submitted by her that the rating in the ACR of the applicant was not communicated to her. Since no case has been made out by the applicant that the adverse entries in the ACR were not communicated, we are constrained to hold that the rating in the ACR of the applicant must have been communicated to her. Since promotion was denied to the applicant in the year 2015 due to her poor rating in the ACR and since promotion was granted to the private respondent due to her high rating in the ACR, we cannot persuade ourselves to hold that the applicant is entitled to get promotion to the post of ADHS (Nursing) with effect from the date when the private respondent was granted promotion to the said post of ADHS

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(Nursing) in the year 2015. As a result, the applicant is not entitled to get any relief in the present application.

The original application is, thus, dismissed.

The urgent Xerox certified copy of the order, if applied for, be supplied to the parties on priority basis after completion of all necessary formalities.

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

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

Rajib