

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA-553 of 2014

Dinesh Ranjan Biswas & Others 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
20 25.09.2019	<p>For the Applicants : Mr. D.K. Mukherjee, Learned Advocate.</p> <p>For the State Respondents : None.</p> <p>The applicants have prayed for direction upon the respondents to consider the applicants for grant of promotion from the post of Chief Discipline Officer and the post of Discipline Officer to the post of Chief Controller (Jailor) / Security Officer, West Bengal Correctional Services.</p> <p>Twenty two (22) applicants joined the post of Disciplined Officers on different dates during the period from 1997 to 2013. Out of twenty two (22) applicants, eight (8) applicants got promotion to the post Chief Discipline Officers during the period from the year 2007 to the year 2017. Out of these eight (8) officers who got promotion to the post of Chief Discipline Officers, two (2) got promotion to the post of Chief Controller (Jailor) and three (3) of them already retired from service. The contention of the applicants is that they were not considered for promotion to the post of Chief Controller (Jailor) of Correctional Services in terms of the Recruitment Rules, whereas the Deputy Jailors have already been considered and granted promotion to the post of Chief Controller (Jailor) in terms of the said Recruitment Rules. The grievance of the applicants is that they should have been considered for promotion along the Deputy Jailors who have already been granted promotion to the post of Chief Controller (Jailor) of Correctional Services.</p>	

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Mr. Mukherjee, Learned Counsel for the applicants submits that the provisions have been made in the Recruitment Rules for grant of promotion to the post of Jailor from the post of both Deputy Jailor and Chief Discipline Officers and in the absence of suitable candidates in the post of Chief Discipline Officers and Deputy Jailor, the Discipline Officers may also be considered for the said promotion.

The reply of the State respondents indicates that six (6) officers holding the post of Controller of Correctional Services were granted promotion to the post of Chief Controller (Jailor) of Correctional Services on the basis of recommendation of Public Service Commission (PSC), West Bengal. The said names were forwarded along with six (06) officers holding the post of Chief Discipline Officer by the Department to PSC on July 25, 2018 for consideration of PSC for the purpose of promotion to the post of Chief Controller (Jailor) of Correctional Services. Out of six (6) Chief Discipline Officers whose names were forwarded to the PSC by the Department, four (4) are the present applicants claiming for promotion to the post of Chief Controller (Jailor) of Correctional Services.

None appears on behalf of the State respondents.

There is no dispute that some of the applicants are holding the post of Chief Discipline Officers and the remaining applicants are holding the posts of Discipline Officers of West Bengal Correctional Services. Admittedly, some of the applicants have already retired

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from service. The Recruitment Rules for filling up the posts of Jailors framed under proviso to Article 309 of the Constitution of India published under Notification No. 1757 H.J dated July 8, 1957 lay down as follows :

“(4) Jailors

(a) Scale of pay-Rs.150-10-370-15-400 per month (Efficiency bar after the 12th stage.)

(b) Method of recruitment-(i) 50 per cent by promotion from the posts of Deputy Jailors and Chief Discipline Officers. In case the requisite quota for promotion is not available from these two cadres, selection may be made from Discipline Officers as well; and

(ii) 50 per cent by direct recruitment on the results of the West Bengal Civil Service Examination.

2. These rules shall come into force with effect from the 15th day of July 1957.”

It appears from the above Recruitment Rules that 50 per cent of the posts of Jailors will be filled up by way of direct recruitment on the basis of the results of the West Bengal Civil Service Examination and the remaining 50 per cent of the posts of Jailors will be filled up by way of promotion from the post of Deputy Jailor, Chief Discipline Officers and in case the requisite quota for promotion is not available from the above two cadres, selection may also be made from Discipline Officers. Nothing is on record to indicate that the provisions of the above Recruitment Rules have been amended or modified by subsequent notification. Accordingly, we find that the

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<p>posts of Jailors (Redesignated as Chief Controller of West Bengal Correctional Services) may be filled up by way of promotion from the post of Deputy Jailor and from the post of Chief Discipline Officer to the extent of 50 per cent of the vacancy in the promotional post. The quota for promotion from the cadre of Deputy Jailor and the quota for promotion from the cadre of Chief Discipline Officer has not been mentioned in the Recruitment Rules. On the contrary, the State respondents have disclosed in the reply that the Chief Discipline Officer belongs to the same rank and status as that of Chief Controller of Correctional Services as laid down in Section 10 of West Bengal Correctional Services Act, 1992. However, it has not been clarified by the State respondents whether the pay scale of the Chief Discipline Officers is the same as that of Chief Controller of Correctional Services. Moreover, the documents filed by the State respondents go to establish that the names of six (6) officers holding the post of Controller of Correctional Services and the names of six (6) officers holding the post of Chief Discipline Officers were forwarded to PSC, West Bengal by letter dated July 25, 2018 for consideration of promotion to the post of Chief Controller (Jailor) of Correctional Services. While promotion was granted to the officers who were holding the post of Controller of Correctional Services on the basis of recommendation of PSC, West Bengal, no action has yet been taken either by the Department or by PSC, West Bengal with regard to the names of six (6) officers including four applicants holding the post of Chief Discipline Officers and as such promotion was not granted to any of them to the post of Chief Controller of Correctional Services. Since Recruitment Rules of 1957 prescribing</p>	
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the mode of promotion from the post of Chief Discipline Officer to the post of Jailor is still in existence and since the names of officers from the cadre of Controller of Correctional Services and the officers from the cadre of Chief Discipline Officers were forwarded to PSC, West Bengal, the action should have been taken either for grant of promotion to the post of Chief Discipline Officers or to refuse promotion on the basis of recommendation of PSC, West Bengal. The inaction on the part of the Department of Correctional Administration is unwarranted.

What transpires from the facts of this case is that the the officers holding the post of Chief Discipline Officers are aggrieved for not consideration of their case for grant of promotion to the post of Chief Controller of Correctional Services (Jailor), in spite of existence of the provisions in the Recruitment Rules. The Department of Correctional Administration should evolve norms for fixing the quota of promotion of Deputy Jailors and the quota of promotion of Chief Discipline Officers to the post of Jailor i.e. Chief Controller of Correctional Services. Of course, this quota need to be fixed on consideration of the cadre strength of the Deputy Jailors and the cadre strength of Chief Discipline Officers and this quota must be within the quota of 50 per cent promotion to the post of Chief Controller of Correctional Services. The eligibility criteria for consideration of the Deputy Jailors and the Chief Discipline Officers must also be formulated in order to address the grievances of the officers holding the post of Chief Discipline Officers of West Bengal Correctional Services. The Recruitment Rules published under notification dated July 8, 1957

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need to be amended after formulation of the norms in terms of the observation made by us within specific period of time.

In view of our above observation, we direct respondent No. 1, Principal Secretary to the Government of West Bengal, Department of Correctional Administration to expedite the process of consideration of the case of six (6) officers holding the post of Chief Discipline Officers (including four (4) applicants) whose names were forwarded to PSC, West Bengal vide a letter No. 859-DCA/O/6A-01/2017 dated July 25, 2018 for grant of promotion to the post of Chief Controller of Correctional Services (Jailor) and come to a final decision within a period of four months from the date of communication of the order. The respondent No. 1 is further directed to evolve norms for fixing eligibility criteria and quota for grant of promotion from the post of Deputy Jailor and from the post of Chief Discipline Officer to the post of Chief Controller (Jailor) of West Bengal Correctional Services in consultation with the Finance Department, Government of West Bengal and amend the existing recruitment rules published under notification dated July 8, 1957, if necessary, within a period of six months from the date of communication of this order.

With the above direction, the original application is disposed of.

Let a plain copy of the order be supplied to the applicants.

S. K. DAS
MEMBER(A)

R. K. BAG
MEMBER(J)

Rajib

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