

**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 2016**

Prabar Coomer Mookerjee 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
16 11.03.2020	<p>For the Applicant : Mr. S.N. Ray, Mr. P.K. Sanyal, Learned Advocates.</p> <p>For the Respondent : Ms. S. Das, Learned Advocate.</p> <p>For A.G. (A &amp; E), West Bengal : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant Prabar Coomer Mookerjee died during the pendency of the original application and his wife Smt. Anita Mookerjee has been substituted in place of the original applicant in the present application.</p> <p>The original applicant has prayed for direction upon the respondents to give him benefit of pay protection at par with the private respondent No. 5, Samar Kumar Chatterjee and refund of a sum of Rs.52006/-, which was deducted from the retiring gratuity of the original applicant on the ground of excess payment of salary.</p>	

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	<p>The applicant joined in the Government service as Mohuorir in the pay scale of Rs.180-350/- on April 12, 1973. Subsequently, he was redesignated as Lower Division Clerk w.e.f. July 1, 1989 and got promotion to the post of Upper Division Clerk after obtaining benefit of Career Advancement Scheme (in short, CAS) for completion of 10 years and 20 years of service. The grievance of the applicant is that the private respondent No. 5 got promotion as Upper Division Clerk after getting benefit of CAS and benefit of Modified Career Advancement Scheme (MCAS) after completion of 10 years, 20 years and 25 years of service. As a result, the private respondent being junior to the applicant in the service got higher salary and as such the applicant has prayed for pay protection at par with the private respondent No. 5. The applicant is also aggrieved for the deduction of Rs.52006/- from the retiring gratuity on the ground of excess payment of salary due to wrong fixation of pay while the applicant was in service.</p>	
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	<p>Having heard Learned Counsel representing both parties and on consideration of the Judgment delivered by the Tribunal in ‘Jhunu Majumder &amp; Others’ v State of West Bengal &amp; Others (OA-1193/2013, OA-1194/2013 &amp; OA-1195/2013 – all disposed of on March 18, 2016), we find that this Tribunal considered the issue of pay protection of ‘Jhunu Majumder &amp; Others’ at par with their junior Samar Kumar Chatterjee and gave direction to the State respondents to consider the case of ‘Jhunu Majumder &amp; Others’ at par with the respondent Samar Kumar Chatterjee and re-fix the pay and grant consequential benefits including the issue of refund to which ‘Jhunu Majumder &amp; Others’ were entitled. The present case is similar to the case of ‘Jhunu Majumder &amp; Others’ (supra) and as such we are of the view that the State respondents should consider whether he applicant is similarly circumstanced with the applicants of ‘Jhunu Majumder &amp; Others’ and grant pay protection at par with the private respondent No. 5, if the applicant is found to be similarly circumstanced with ‘Jhunu Majumder &amp; Others’.</p>	
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In view of our above findings, we direct the respondent No. 2, Director of Personnel and Ex-Officio Chief Engineer, Directorate of Irrigation and Waterways to consider whether the applicant is similarly circumstanced with the applicants of Jhunu Majumder & Others v State of West Bengal & Others (OA-1193/2013, OA-1194/2013 & OA-1195/2013) by passing a reasoned order within a period of twelve weeks from the date of communication of the order. If the respondent No.2 comes to the conclusion that the applicant is entitled to get pay protection at par with the private respondent No. 5, he will take necessary steps for refixation of pay of the applicant and consider the issue of refund, if any, in favour of the applicant within a period eight weeks from the date of passing the reasoned order.

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

Let a plain copy of the order be supplied to all the parties.

Rajib

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

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