

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-**The Hon'ble Justice Soumitra Pal****&****The Hon'ble P. Ramesh Kumar.**

Case No –

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 style="text-align: center;"><u>15</u> 13.09.2018</p>	<p style="text-align: center;"><u>Case No.-OA-572 of 2015</u> Krishna Chandra Das & Others. -Vs- The State of West Bengal & Others.</p> <p>For the Applicants : Mr. Manujendra Narayan Roy, Mr. Pradip Kumar Sanyal, Advocates.</p> <p>For the Respondents : Mrs. Mousumi Mallick, Advocate.</p> <p style="text-align: center;">AND</p> <p style="text-align: center;"><u>Case No.-OA-574 of 2015</u> Shivshankar Thakur. -Vs- The State of West Bengal & Others.</p> <p>For the Applicant : Mr. Manujendra Narayan Roy, Mr. Pradip Kumar Sanyal, Advocates.</p> <p>For the Respondents : Mrs. Mousumi Mallick, Advocate.</p> <p style="text-align: center;">AND</p> <p style="text-align: center;"><u>Case No.-OA-575 of 2015</u> Urmila Das Kundu. -Vs- The State of West Bengal & Others.</p> <p>For the Applicant : Mr. Manujendra Narayan Roy, Mr. Pradip Kumar Sanyal, Advocates.</p>	

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	<p>For the Respondents : Mrs. Mousumi Mallick, Advocate.</p> <p>Since issues are similar, OA-572 of 2015, OA-574 of 2015 and OA-575 of 2015 are taken up for hearing analogously. For the sake of clarity the facts mentioned and documents referred to in OA-572 of 2015 are dealt with in this order.</p> <p>In OA-572 of 2015, twelve applicants have prayed for a direction upon the respondents to quash the letter dated 20th November, 2014 whereby the Superintending Engineer, Damodar Irrigation Circle, I & W Directorate has informed one of the applicants-Krishna Chandra Das - that his candidature for appointment in the post of Group-D under Irrigation & Waterways Directorate will not be considered as he is over aged as on 01.01.2006.</p> <p>Mr. Manujendra Narayan Roy, learned Advocate appears on behalf of the applicants referring to the orders passed by the Hon'ble Supreme Court of India on 13th August, 2013 in Buddhadeb Ruidas & Ors.-Vs-State of West Bengal & Ors. and the affidavit of compliance filed by the State of West Bengal before the Hon'ble Supreme Court of India, referring to the chart</p>	

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	<p>at pages-30 and 31 of this application submits that though the applicants have been denied appointment surprisingly one Milan Kumar Ghosh whose name finds mention against serial no. 13, an "Over Aged" candidate, has been appointed in the post of "Khalashi (Category-D)" in the Office of the Sub Divisional Officer, Bolpur Irrigation Sub-Division leaving out the applicants which is evident from the order dated 19th May, 2015 passed by the Superintending Engineer, Mayurakshi Canal Circle, Suri, Birbhum.</p> <p>Submission is since a non eligible candidate has been appointed, the applicants in the three applications be appointed and a direction may be issued upon the authorities to enquire into the appointment of Milan Kumar Ghosh an admittedly over-aged candidate.</p> <p>Mrs. Mousumi Mallick, learned advocate for the respondents submits that the action taken by the State Respondents is in accordance with law.</p> <p>There is no dispute that the applicants in the three applications belonging to different categories were over aged. It appears from the records that Milan Kumar Ghosh, an over aged candidate, was given</p>	

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	<p>appointment as evident from the rejoinder filed by the applicant in OA-572 of 2015. In our view, the applicants cannot claim relief on the basis of an illegality. There cannot be negative equality. Hence, no order is passed of the applications. All three applications OA-572 of 2015, OA-574 of 2015 and OA-575 of 2015 are disposed of. However, since it has been alleged that Milan Kumar Ghosh, an over aged candidate, was appointed by office order dated 19th May, 2015 by the Superintending Engineer, Mayurakshi Canal Circle, Suri, Birbhum, the Principal Secretary of the Irrigation & Waterways Department now re-designated as Additional Chief Secretary, Irrigation & Waterways Department, Government of West Bengal shall conduct an enquiry regarding the appointment of Milan Kumar Ghosh and shall file a report before the Chief Secretary, Government of West Bengal within six months from the date of service of copy of this order after giving Milan Kumar Ghosh an opportunity of hearing and after making necessary enquiry and after verifying the records. A copy of the report shall also be sent to the learned Advocate on record for the applicant in the three applications. It is</p>	

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<p><i>Sourav.</i></p>	<p>also made clear that any observation in this order regarding the appointment of Milan Kumar Ghosh is tentative in nature and enquiry will be conducted being uninfluenced by this order.</p> <p>(P. RAMESH KUMAR) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	