

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

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

**Case No –OA 588 OF 2018**

**Supriya Mondal 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
<p>1 16.08.2018</p>	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p>For the State Respondents : Mr. G.P. Banerjee, Mrs. S. Agarwal, Learned Advocates.</p> <p>The applicant has prayed for a direction upon the respondents to consider him for promotion to the post of Divisional Fire Officer in terms of Memorandum No. 224-P &amp; AR (Vig.) dated June 12, 1980 and other ancillary reliefs.</p> <p>The applicant is holding the post of Station Officer at Suri under Birbhum Fire Division. A Charge memo was served on the applicant on May 29, 2014 for conducting departmental enquiry against the applicant. The said departmental enquiry was concluded by the Enquiry Officer and the report was submitted before the Disciplinary Authority. The respondent no.2 being the Disciplinary Authority of the applicant issued second show cause notice on May 2, 2016 and reply to the same was given by the applicant on May 9, 2016, but no final order has yet been passed by the said respondent no. 2. The respondent no. 2 also issued another second show cause notice on December 19, 2016 and reply to the same was given by the applicant on January 2, 2017,</p>	

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	<p>but no final order has been passed by the respondent no. 2. It also appears from record that the respondent no. 2 issued third show cause notice to the applicant on May 5, 2017 calling upon him to file reply or to appear before him on May 11, 2017 to present his case in person. The contention of the applicant is that he appeared before the respondent no. 2 on the scheduled date, but no final order has yet been passed by the respondent no. 2. It is contended on behalf of the applicant that the list of Station Officers is ready for forwarding their names to Public Service Commission, West Bengal for consideration of their case for promotion to the post of Divisional Fire Officer, but the case of the applicant has not been considered by the respondent no. 2 on the ground of pending of disciplinary proceeding against him.</p> <p>Relying on Memo No. 224-P &amp; AR (Vig.) dated June 12, 1980 issued by the Chief Secretary to the Government of West Bengal, Mr. M.N. Roy, Learned Counsel for the applicant submits that the disciplinary proceeding pending against the applicant has not been concluded by the Disciplinary Authority within a period of three years from the date of service of charge memo on the applicant and as such the case of the applicant must be considered for promotion on the basis of Memorandum dated June 12, 1980.</p> <p>Mr. G.P. Banerjee, Learned Counsel representing the State respondents contends that the name of the applicant has not been forwarded to the Public Service Commission, West Bengal due to</p>	

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	<p>pendency of the disciplinary proceeding against the applicant.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the fact that the disciplinary proceeding pending against the applicant has not been concluded within a period of three years from the date of service of charge memo on the applicant and the fact that the applicant is not responsible for the delay in conclusion of the disciplinary proceeding, we are of the view that the case of the applicant should be considered for provisional promotion by the respondent no. 2 in terms of Memorandum dated June 12, 1980 issued by the Department of Home, Personnel and Administrative Reforms, Government of West Bengal. Since the disciplinary proceeding is still pending against the applicant even after giving reply to the second show cause notice for more than three years, we are of the view that the case of the applicant should be considered for promotion and the result of the promotion must be kept confidentially in the sealed cover and the said promotion will be subject to the result of the disciplinary proceeding against the applicant.</p> <p>In view of our above findings, the respondent no. 2, Director General of Fire and Emergency Services, Government of West Bengal is directed to take necessary steps for consideration of promotion to the applicant along with other Station Officers within a period of eight weeks from the date of communication of the order and the recommendation of promotion of the applicant, if</p>	

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