

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

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

Case No –OA 666 OF 2012

Bipul Kumar Saha 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>27 24.07.2018</p>	<p>For the Applicant : Mr. S. N. Ray, Learned Advocate.</p> <p>For the State respondents : Mr. A.L. Basu, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents to give the applicant promotion from the date of his eligibility for promotion after quashing order dated April 26, 2012 by which names were forwarded by the Department to Public Service Commission, West Bengal for consideration and recommendation for promotion.</p> <p>The applicant joined in the post of Sub-Assistant Engineer (M & E) at Teesta Mechanical Division, Siliguri on April 15, 1997. The contention of the applicant is that he passed departmental examination conducted by Public Service Commission, West Bengal on the basis of Notification dated March 4, 2009 published by Public Service Commission, West Bengal and, therefore, he is eligible for promotion to the post of Assistant Engineer w.e.f. December 28, 2010. The further contention of the applicant is that he should have been promoted to the post of Assistant Engineer before his immediate senior Debasis Majumdar as he passed departmental examination before his immediate senior, Debasis Majumdar. The grievance of the applicant is that without giving him effect of promotion from the year 2010 he has been given promotion during pendency of the present application with effect from the date of actual joining in the post of Assistant Engineer on the basis of Notification dated December 26, 2013.</p>	

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Mr. S.N. Ray, Learned Counsel for the applicant contends that the applicant was eligible for promotion in the year 2010 for passing out the departmental examination. Had the name of the applicant been forwarded to the Public Service Commission by the concerned department in the year 2010, he would have been promoted long before promotion of his immediate senior in the gradation list (namely Debasis Majumdar) and the benefit of that promotion would have been given from the year 2010. On the other hand, Mr. Basu, Learned Counsel representing the State respondents contends that the case of the applicant has been considered on proper time and the applicant has not been superseded by his junior placed in the gradation list. He further submits that Debasis Majumdar who was placed above the applicant in the gradation list got the promotion in the post of Assistant Engineer before promotion of the applicant and thereby the applicant has not been discriminated at any point of time.

Having heard Learned Counsel representing both parties and on consideration of materials on record, we find that the applicant is placed at serial no. 76 in the gradation list (annexure A to the original application) while one Debasis Majumdar who has not been impleaded as respondent in the present application is placed at serial no. 75 in the said gradation list. The position of the applicant in the gradation list and that of his immediate senior, Debasis Majumdar cannot change only because the applicant passed out departmental examination prior to passing out of departmental examination by his immediate senior. Nothing is on record to indicate that the applicant is more meritorious than his immediate senior Debasis Majumdar. In the absence of any document before us to establish that the department should have considered the case of the applicant bypassing the seniority of his immediate senior Debasis Majumdar, we are unable to accept the contention made on behalf of the applicant that the case of the applicant should have been forwarded to the Public Service Commission before forwarding the case of his immediate senior, Debasis Majumdar. We

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fully accept the submission made on behalf of the State respondents that the applicant has not been discriminated against in giving promotion to the post of Assistant Engineer.

In view of our above findings, we do not find any merit in the present applicant. Accordingly, the present application is dismissed.

(Dr. S.K. Das)
Member (A)

(R.K. Bag)
Member (J)

Rajib