

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

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

Case No –OA 737 OF 2013

Md Eusuph 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>24</p> <hr/> <p>09.07.2018</p>	<p>For the Applicant : Md. Eusuph, Appears in person.</p> <p>For the State Respondent : Mr. R.A. Chowdhury, Learned Advocate.</p> <p>The applicant joined in the post of Progress Assistant under the Department of Agriculture and Community Development, Government of West Bengal on March 15, 1965. The service of the applicant was confirmed w.e.f. March 15, 1967 and he retired from service on December 31, 1996. The applicant was suspended from service on October 19, 1982 and departmental enquiry was started against the applicant. The departmental enquiry ended in imposition of punishment of withholding of five increments and the order of punishment was served on the applicant on April 30, 1990. The applicant approached the Tribunal by filing TA 1606 of 1997 which arose out of C.O. No. 13198(W) of 1990. On July 29, 2005, this Tribunal had set aside the order of punishment imposed on the applicant by the Disciplinary Authority and affirmed by the Appellate Authority and also quashed the departmental enquiry. Accordingly, the applicant was reinstated in service on May 22, 1990.</p> <p>The applicant approached the Tribunal for the second time by filing OA 1150 of 2009 which was disposed of on May 11, 2011. On</p>	

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	<p>May 11, 2011, this Tribunal gave direction for consideration of prayer of the applicant for promotion to the post of Joint Block Development Officer in accordance with rules by which the applicant is governed. For implementation of the order passed by the Tribunal, the applicant had to file one contempt application being CCP 14 of 2012 which was disposed of on February 4, 2013. During pendency of the contempt application, the contemnor complied with the direction given by the Tribunal by passing reasoned order dated January 31, 2013. It appears from the said reasoned order that the case of the applicant for promotion was considered but his name could not be forwarded to Public Service Commission, West Bengal for recommendation for promotion to the post of Joint Block Development Officer on the basis of interview as the applicant retired from service on December 31, 1996. The Tribunal disposed of contempt application on February 4, 2013 after being fully satisfied with the reasoned order passed by the contemnor viz, Joint Secretary to the Government of West Bengal, Department of Panchayat and Rural Development.</p> <p>With the above factual matrix, the applicant has moved the Tribunal for the third time by filing the present application whereby the applicant has prayed for quashing of order dated January 28, 2013 issued by the Joint Secretary to the Government of West Bengal, Department of Panchayat and Rural Development for giving promotion to the post of Joint Block Development Officer with retrospection effect. The applicant has repeated his previous prayer for giving the benefit of promotion. The State respondents</p>	

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	<p>have specifically stated in the reply that there was no scope of sending the name of the applicant to Public Service Commission, West Bengal for recommendation of his name for promotion on the basis of interview in January, 2013 as he retired from service on December 31, 1996. We have already observed that this fact was considered by this Tribunal in the previous contempt application and the Tribunal was satisfied with the reasoned order passed by the contemnor and thereby contempt application was dismissed. Since the issue of consideration of the case of the applicant for promotion was already decided in the previous original application, the fresh consideration of the said issue in the present application is clearly barred by the principle of resjudicata. The applicant cannot be allowed to agitate the same issue in the present application when the said issue of consideration of the case of the applicant for promotion was already decided on merit.</p> <p>Now, the question for consideration of the Tribunal is whether the order dated January 28, 2013 issued by the Joint Secretary to Government of West Bengal, Department of Panchayat and Rural Development can be quashed as prayed for by the applicant. Having heard Learned Counsel for the State respondents and the applicant in person, we find that the applicant has been given all increments which were previously withheld by way of imposition of punishment. The applicant has also been given benefit of Career Advancement Scheme w.e.f. April 1, 1989. The applicant has been given the benefit of ROPA, 1981 and ROPA, 1998 as the benefit of ROPA, 1998 was given from April 1, 1996. We find from the order</p>	

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Rajib	<p>dated April 19, 2006 issued by the Block Development Officer, Dubrajpur, Birbhum that the long period of suspension of the applicant from October 18, 1982 to May 21, 1990 has also been treated as on duty and full salary including annual increment is given to the applicant for the aforesaid period of suspension. We have already observed that the issue of promotion of the applicant has already been finally decided by the Tribunal in OA 1150 of 2009 and CCP 14 of 2012 and as such the applicant cannot be allowed to re-agitate the said issue as the previous decision of the Tribunal in this regard has already attained finality and the same is binding on both the parties.</p> <p>In view of our above findings, the applicant is not entitled to get any relief in the present application. As a result, the present application is dismissed.</p> <p>Let a plain copy of the order be supplied to both the parties.</p> <p style="text-align: center;">(Dr. S.K. Das) Member (A)</p> <p style="text-align: center;">(R.K. Bag) Member (J)</p>	