

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 363 of 2022.

BASUDEB BHATTACHARJEE - VERSUS- THE STATE OF WEST BENGAL & OTHERS

Serial No. and
Date of order

10
16.5.2024

For the Applicant	: Mrs. S. Mitra, Advocate.
For the State Respondents	: Mr. S.K. Mondal , Advocate.
For the State Respondent Nos. 1,2,3 & 4	: Mr. S. Debray, Mr. R. Bag, Departmental representatives, L & L.R. Department.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt. – II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The prayer in this application is for setting aside the impugned decision of the Finance Department conveyed to the Administrative Department on 01.04.21. The applicant had prayed for pay protection under rule 55(4) WBSR Part-I. Submitting on behalf of the applicant, Mrs. Mitra submits that the applicant has fulfilled all the criteria laid down under the above mentioned rule. Therefore, he is entitled to such pay protection.

Disagreeing with Mrs. Mitra and relying on the rule, Mr. Mondal, learned counsel submits that as per rule, such prayer is not admissible. He quoted the relevant part of the Rule 55(4) which is as under :-

“(4) If a Government employee while officiating in a higher post draws pay at a rate higher than his Senior Officer either due to fixation of his pay in the higher post under the normal rules, or due to revision of pay scales, the pay of the Government employee senior to him shall be re-fixed at the same stage and from the same date his junior draws the higher rate of pay irrespective of whether the lien in the lower post held by the Senior Officer is terminated at the time of re-fixation of pay, subject to the conditions that both the Senior and Junior Officers should belong to the

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same cadre and the pay scale of the posts in which they have been promoted are also identical.....”.

Submission is that in this case, the applicant was appointed as a Typist whereas Bhakti Kumar Das, the employee as an example cited by the applicant was initially appointed as an Amin. Therefore, the two posts being different belonging to different cadres are not comparable and the main condition of Rule 55(4) that both the senior and junior officers, who belong to the same cadre have not been fulfilled. Mr. Mondal submits that instead of filing a reply he will base his submission on the basis of opinion given by the Finance Department.

Mrs. Mitra prays for accommodation and liberty to file relevant documents on the next day in support of the prayer of the applicant.

Let the matter be listed on 09th December, 2024 under the heading “For Orders”.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Sk.