

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Officiating Chairperson & Member (A)

Case No. – OA - 587 of 2016

Sanjay Das VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	:	Mr. M.N. Roy, Learned Advocate
	For the State Respondents	:	Mrs. S. Agarwal, Learned Advocate.
<u>22</u> 13.09.2023			

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.

On consent of the learned counsels, the matter is taken up for consideration sitting singly.

The applicant has prayed for a direction to the respondent authorities to give effect of promotion to him in the post of Upper Division Clerk on and from 01.10.2002 instead of 28.02.2004 as was given to Sriti Kumar Basak. Further prayer relates to cancellation of the promotion order which had allowed Ashim Ranjan Paul who was promoted as an O.B.C. candidate for the post of Upper Division Clerk. The prayer has also sought a direction to cancel a promotion order given to Respondent No. 5, Sanjit Sardar without having completed the mandatory probationary period of three years.

Appearing as the legal counsel of the applicant, Mr. Roy submits the following :-

- i) The promotion given to Respondent No. 4, Ashim Ranjan Paul as mentioned in the reply of the state was that he belongs to the O.B.C. category. Attention is drawn to paragraph 9 of the reply which states that the 9th vacancy has been reserved for Backward Class candidate only as per

G.O. No. 240-Emp dated 02.08.2001. Mr. Roy draws my attention to page 12 of the reply which appears to be the Notification cited in the reply stating the promotion of Respondent No. 4 as an O.B.C. candidate. This Notification 240-Emp dated 02.08.2001 stipulates a 100-point roster showing the posts reserved for SC, STs, Backward Classes and persons with disabilities and exempted categories in the guidelines of "Appointing Authorities". In the 100-point roster the 9th vacancy is to be filled up by a Backward Class candidate.

Now submission of Mr. Roy is that though such 9th vacancy is meant for Backward Class candidates but it only relates to appointments and not promotion of serving govt. employees.

Mr. Roy also points out to Annexure in the reply shown as Schedule-II which is the 50-point roster for filling up vacancies on promotion by members of SC & STs employees. The 9th vacancy is shown as "Unreserved". Mr. Roy contends that the promotion given to Respondent No. 4 against the 9th vacancy under the 50-point roster is not valid in law as this vacancy is an "Unreserved" vacancy but it was filled up by the O.B.C. candidate as if it was reserved for O.B.C. Both in the reply at page 3 and page 19 of the original application, the respondents have flouted the rule by insisting that

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the 9th vacancy is reserved for O.B.C., which is, in fact an “Unreserved” vacancy.

Mr. Roy concludes his submission for today.

Let the matter appear under the heading “Further Hearing”
on **20.09.2023**.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

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