

ORDER SHEET
West Bengal Administrative Tribunal

Present.-
The Hon'ble Justice Ranjit Kumar Bag
&
The Hon'ble Dr. Subesh Kumar Das

Case No. **OA - 1135 of 2012**

Arabinda Das

Versus

The State of West Bengal & Others.

Serial No. and
date of order

Order of the Tribunal
with signature

Office action with date
and dated signature of
parties when necessary.

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25/07/2018

For the Applicant : *Mrs. S. Mitra,*
Learned Advocate.

For the State Respondents : *Mr. S. N. Ray,*
Learned Advocate.
roster

The applicant has prayed for direction upon the respondents to give the applicant financial benefits for working in the post of Store Keeper falling under Group - C category during the period from October 28, 1998 till the date of filing of the original application on August 28, 2012.

The applicant was appointed as Attendant (Group - D post) at Youth Hostel, Yuba Bharati Krirangan, Kolkata on purely temporary basis with effect from October 28, 1998 by virtue of order dated October 28, 1998 issued by the Deputy Secretary to the Government of West Bengal, Department of Sports and Youth Services. On April 13, 1999, one duty roster was prepared to streamline the administration of State Youth Hostel and the applicant was asked to perform the duty of Store Keeper. The applicant was confirmed in Group - D post with effect from November 1, 2001 on the basis of order issued by the Deputy

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	<p><i>Secretary to the Government of West Bengal, Department of Sports and Youth Services on February 1, 2002. It appears from subsequent Office order dated May 5, 2003 issued by the Assistant Administrative Officer of Yuba Bharati Krirangan (Sports Wing) that the applicant had to perform the duty of Store Keeper on the basis of the duty roster prepared for the staff of Sate Youth Hostel. The contention of the applicant is that he is entitled to receive salary of Group – C post for performance of duty as Store Keeper on the basis of duty roster prepared by the Administrative Officer of the State Youth Hostel.</i></p> <p><i>The state respondents have denied the claim of the applicant by giving a reply. It appears from the said reply that the applicant was never promoted to the post of Store Keeper (Group – C) and as such, the applicant is not entitled to get the salary of the Group – C post.</i></p> <p><i>Mrs. Mitra, Learned Counsel for the applicant contends that the applicant has performed the duty in the higher post of Store Keeper for prolonged period of time and as such, the applicant is entitled to get the salary attached to the post of Store Keeper (Group – C). She has relied on unreported</i></p>	

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	<p><i>judgement of “Arindam Chattopadhyay & Others v. State of West Bengal & Others”(Civil Appeal No. 2521 of 2013 arising out of SLP (C) No. 7420 of 2012 disposed of on March 13, 2013) in respect of her above contention. On the other hand, Mr. S. N. Ray, Learned Counsel for the state respondents has refuted the claim of the applicant to get salary of Group – C post as the applicant was never appointed or promoted to Group – C post.</i></p> <p><i>In “Arindam Chattopadhyay & Others v. State of West Bengal & Others”(Supra) the Hon’ble Supreme Court of India dealt with the issue where the officers working as Child Development Project Officer (in short CDPO) in the Integrated Child Development Services (in short ICDS) are entitled to get the salary on the basis of the pay scale prescribed for the said post. The Officers / Appellants were appointed as Assistant Child Development Project Officer (in short ACDPO). After almost 12 years of service the said officers were transferred to ICDS projects to act as CDPOs with the concurrence of Finance Department of the Government. Those officers were getting the existing pay scale, as no separate pay scale was prescribed for the post of CDPOs at that relevant</i></p>	

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	<p><i>point of time. Moreover, there was no existence of recruitment rules at that relevant point of time for recruitment to the post of CDPOs. The said officers / Appellants continued their service as CDPOs for about 6 years till the date of filing of Writ Petition and for the period of almost 14 years till the date of final decision before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court gave direction to the state respondents to give the Officers / Appellants the pay scale attached to the post of CDPOs with effect from the date they took over the charge of the said post.</i></p> <p><i>The facts of the above unreported case are clearly distinguishable from the facts of the present case where the applicant has not been transferred to any other organisation for performance of higher responsibility. The applicant was asked by issuing duty roster to perform the duty of Store Keeper without appointing him in the post of Store Keeper and without giving him promotion to the post Store Keeper (Group – C). The order issued by the Administrative Officer of Yuba Bharati Krirangan (Sports Wing) was in the form of duty roster for performance of shifting duty for administrative convenience and the said order was never passed</i></p>	

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	<p><i>with the concurrence of the Finance Department, Government of West Bengal. The confirmation of the applicant in the Group – D post was done by the concerned Department when the applicant was performing duty of Store Keeper (Group – C) on the basis of duty roster. Accordingly, the ratio of the case of “Arindam Chattopadhyay & Others” (Supra) cannot have any manner of application in the facts of the present case. We are unable to accept the contention made on behalf of the applicant that the applicant is entitled to get the pay scale of Group – C post (Store Keeper) on the basis of performance of duty in the said post as directed by the duty roster issued by the Administrative Officer / Chief Executive Officer of Yuba Bharati Krirangan (Sports Wing).</i></p> <p><i>As a result, the applicant is not entitled to get any relief and the present original application is, thus, dismissed.</i></p> <p><i>Let a plain copy of the order be supplied to both the parties.</i></p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	

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