

ORDER SHEET

West Bengal Administrative Tribunal

Present.-

The Hon'ble Justice Ranjit Kumar Bag

&

The Hon'ble Dr. Subesh Kumar Das

Case No. **OA 157 of 2016**

Krishna Chandra Das

Versus

The State of West Bengal & Ors.

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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27/11/2019

For the Applicant : Mr. V. Misra,
Ld. Advocate.

For the State Respondent : Mr. S. Ghosh,
Ld. Advocate.

Rejoinder filed on behalf of the applicant today is kept on record.

The applicant has prayed for direction upon the respondents for fixation of his seniority and payment of arrears of pay and other consequential reliefs.

The contention of the applicant is that he was appointed in Group 'D' post under the respondent no. 4, Superintendent, E.S.I. Hospital, Manicktala on May 27, 1994 on compassionate ground. He got promotion to the post of Lower Division Clerk on March 24, 2011 and promotion to the post of Upper Division Clerk on September 13, 2013. The further contention of the applicant is that his seniority was never fixed after his appointment on compassionate ground in the year 1994. The grievance of the applicant is that his name is not appearing in the Gradation List of Upper Division Clerk published on March 01, 2013, though his juniors in the service namely Smt Rekha Nath, Shri Rajesh Kumar Dhanuk, Malay Sengupta, Anjumina Khatun have been incorporated in the said Gradation List.

Mr. Vinay Misra, Learned Counsel appearing on behalf of the applicant has drawn our attention to the

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	<p>order dated August 06, 2007 passed by the Division Bench of the Hon'ble High Court in W.P.S.T. No. 658(w) of 2005, whereby the Government of West Bengal was directed to engage the applicant in a suitable Group 'C' post whenever the vacancy will arise in the exempted category to fill up the said post. The contempt proceeding initiated at the instance of the applicant before the Division Bench of the Hon'ble High Court (W.P.S.T. No. 658(w) of 2005 with C.P.A.N. No. 87/2011 disposed of in the year 2011) was dropped as the applicant did not press for hearing of the said contempt application due to appointment of the applicant in the post of Lower Division Clerk in the meantime.</p> <p>We have heard Mr. Ghosh, Learned Counsel representing the state respondents.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the names of the persons shown to be the juniors of the applicant namely Smt Rekha Nath, Shri Rajesh Kumar Dhanuk, Malay Sengupta, Anjumina Khatun got promotion to the post of Upper Division Clerk during the period from November 30, 2004 to May 23, 2005, whereas the applicant was appointed in Group 'C' post (L.D.C.) on March 24, 2011 during pendency of the contempt proceeding before the Division Bench of the Hon'ble High Court and got promotion to the post of</p>	

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Csm	<p>U.D.C. only on September 13, 2013. Since the applicant was not even appointed in the post of L.D.C. when the alleged juniors of the applicant got promotion to the post of U.D.C. in the year 2004 and in the year 2005, we are of the view that the applicant can never be considered as senior to Smt Rekha Nath, Shri Rajesh Kumar Dhanuk, Malay Sengupta, Anjumina Khatun as contended on behalf of the applicant. The seniority of the applicant in the cadre of Upper Division Clerk needs to be fixed in the next Gradation List to be published by the Directorate after giving due weightage of seniority from the date of his appointment as U.D.C. on September 13, 2013.</p> <p>In view of our above observation, the respondent no. 2, Director, E.S.I. is directed to incorporate the name of the applicant in the Gradation List to be published by the Directorate by taking into consideration the date of his appointment as U.D.C. on September 13, 2013.</p> <p>With the above direction, the original application stands disposed of.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	