

ORDER

**Ref.: O.A. 33 of 2020
Krishna Gopal Biswas & Ors.
-Vs-
State of West Bengal & Ors.**

Dated
22.09.2022

The aforesaid Original application has been preferred by the petitioners with a prayer to setting aside/quashing the Order dated 26.05.2008 whereby the respondents have regularized appointment of eleven Assistant Engineers under R.W.P. setup (Government Post) of the Panchayat & Rural Development Department allegedly without following the Memorandum dated 24.01.2006 and to correct the Draft Gradation List of Assistant Engineers under R.W.P. Setup (Government Post) of Panchayat & Rural Development Department by placing the applicant above the Private respondent No.6 to 16.

In connection with the aforesaid matter an Order has been passed by the Hon'ble W.B.A.T. on 24.12.2021 which inter alia states - "... the application is disposed of by granting liberty to the applicants to file representation afresh individually and separately objecting to the gradation list published under Memo. dated 14th November, 2018 and highlighting subsequent events, along with the copies of this Order downloaded from the Website of the Tribunal within eight weeks before the Joint Secretary, Panchayat & Rural Development Department, Government of West Bengal, Kolkata, the respondent No.4. If representations are filled individually and separately, the respondent No.4 shall disposed of the same by passing reasoned orders each on its merit to be communicated to each of the applicants within 15 (fifteen) weeks regarding objection to the Draft gradation list of 2018, published by the Department on 14th November, 2018 after giving an opportunity to the applicants individually, the private respondent Nos.6 to 16 and other employees who may be affected and after verifying the records.

It is made clear that we have not gone into the merits of the matter and all points are kept open to be dealt with by the respondent no.4, if representations are filed afresh within the time as stipulated."

Pursuant to the aforesaid order representations are filled by the applicants individually on **16.02.2022** and hearing opportunity was given to them on **12.09.2022**.

On 12.09.2022 hearing has been arranged in presence of the following persons:

1. Shri Shamik Roychowdhury, Deputy Secretary of this department,
2. Shri Suvendu Roy, OSD of this department,
3. Shri Naba Kumar Ghosh, Section Officer of this department &
4. Shri Dhananjay Nayak & Shri Supratim Dhar, Ld. Advocates of the applicants.

Facts of the Case

It appears from the representations filed by the applicants that the service of the Private respondent No.6 to 16 was regularized as Assistant Engineer vide Cabinet decision of Government of West Bengal held on February 20, 2008, Subsequently a Government Order bearing Memo. No.4213-RD(JRY)/13-E/8/08 dated 26.05.2008 was issued in terms of the

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aforesaid Cabinet decision as well as Finance Department U.O. No.53 group service (PS) dated 03.01.2008 which inter alia states "... that Governor has been pleased to regularized the Ad-hoc appointment w.e.f. the date of joining to the regular post of Assistant Engineer under R.W.P. Setup (Government Post) of the following eleven (11) Assistant Engineer who were appointed on ad-hoc basis in 2003 under R.W.P. Setup of this Department format appointment order will be issued to them after completion of formalities of verification of their antecedents and medical examination reports.

Their inter-se-seniority will be determined later".

The applicants were promoted as Assistant Engineer from the post of Sub-Assistant Engineer. Thereafter a gradation list for the post of Assistant Engineer under this Department was published on 14th November, 2018 vide Memo. No.10226(46)-RD/O/13E-03/2016 wherein the said Private respondents are being placed higher than the applicants.

Fact in Issue

Whether the private respondents whose service were regularized by the Cabinet decision of the Government of West Bengal on 20th February, 2008 and subsequently appointment vide Government Order bearing No. 213-RD(JRY)/13-E/8/08 dated 26.05.2008 can be placed in gradation list before the applicants who are being promoted to the post of the Assistant Engineer through our Government recruitment agency.

Rationale behind the Order

The applicants were appointed to the post of Assistant Engineer by way of promotion through a Government recruitment agency. However the service of the private respondents are being regularized as Assistant Engineer in terms of Cabinet decision of the Government of West Bengal held on 20th February, 2008. It is pertinent to be mentioned here that in both the cases Finance Department has accorded sanction either for recruitment through or for regularization in the post of Assistant Engineer. It is immaterial that how such appointment was made i.e. whether the same was made through Government Recruitment Agency or the same was made by way of regularization of service by the Cabinet of the Government of West Bengal. Therefore date of appointment is the prime factor for making gradation list to the post of Assistant Engineer.

It is noteworthy that the appointment to the post of Assistant Engineer of the Private respondents are earlier than the applicants. As a consequence they will be placed in higher position than the applicants in the Gradation list.

ORDER

Considering the facts and circumstances, the claim of the applicants are hereby considered and rejected.


Joint Secretary
Panchayat & Rural Development Department
Government of West Bengal

No. 5650/1(60)-RD/O/13E-30/2008(Pt-2)

Dated, 12th September, 2022

Copy forwarded for information and necessary action to:-

1. The Accountant General (A&E), West Bengal, Treasury Buildings, Kolkata-1.
2. The Secretary, Public Service Commission, 161-A, S. P. Mukherjee Road, Kolkata - 700 026.
3. The Registrar, West Bengal State Administrative Tribunal, Bikash Bhawan, Bikash Bhavan, Salt Lake, Kolkata- 700091.
4. The Additional Secretary, Establishment Cell of this department.
5. The ACEO, WBSRDA.
6. The Deputy Secretary, Law Cell of this department.
7. The Executive Officer, Bankura ZP/ Uttar Dinajpur ZP/ Howrah ZP/ Paschim Medinipur ZP/ Purba Medinipur ZP/ Hooghly ZP/ Jhargram ZP/ South 24 PGS ZP/ Dakshin Dinajpur ZP/ Birbhum ZP/ Jalpaiguri ZP/ Murshidabad ZP/ Nadia ZP/ Purba Bardhaman ZP/ Malda ZP/ Coochbehar ZP.
8. The AEO, Bankura ZP/ Uttar Dinajpur ZP/ Howrah ZP/ Paschim Medinipur ZP/ Purba Medinipur ZP/ Hooghly ZP/ Jhargram ZP/ South 24 PGS ZP/ Dakshin Dinajpur ZP/ Birbhum ZP/ Jalpaiguri ZP/ Murshidabad ZP/ Nadia ZP/ Purba Bardhaman ZP/ Malda ZP/ Coochbehar ZP.
9. The Superintending Engineer, Malda RRNMU.
10. Shri Lakshmi Kanta Paira, EE, Bankura ZP/ Shri Ramapriya Chattopadhyay, EE, Uttar Dinajpur ZP/ Shri Sajal Chatterjee, AE, Howrah ZP/ Shri Suresh Das Adhikary, EE, Paschim Medinipur ZP/ Shri Aninda Guha, EE, Purba Medinipur ZP/ Shri Nilotpal Chatteraj, EE, Hooghly ZP/ Shri Himadri Chakraborty, EE, Jhargram ZP/ Monohar Hossain Mondal, EE, Paschim Medinipur ZP/ Shri Biswajit Patra, EE, Malda RRNMU/ Shri Pradip Kumar Das, EE, South 24 PGS ZP/ Shri Rabindra Nath Sarkar, EE, Dakshin Dinajpur ZP/ Shri Amlan Bhattacharyya, AE, Paschim Medinipur ZP/ Shri Anjan De, AE, Birbhum ZP/ Shri Partha Sarkar, AE, Jalpaiguri ZP/ Shri Krishna Gopal Biswas, AE, Murshidabad ZP/ Shri Akshoy Bhowmick, AE, Nadia ZP/ Shri Biswajit Mandal, AE, Purba Bardhaman ZP/ Shri Kamal Kanti Bhattacharyya, AE, Jalpaiguri ZP/ Shri Nanda Dulal Bhakat, AE, Malda ZP/ Shri Jyotirmoy Sinha, AE, Coochbehar ZP/ Shri Chanchal Bansfore, AE, Murshidabad ZP.
11. The Section Officer, Estt Cell/ JRY Cell/ Law Cell of this department.
12. PA to Secretary of this department.
13. Shri Dhananjay Nayak, Advocate, Bar Association Room No. 05, High Court, Calcutta.
14. Shri Supratim Dhar, Advocate, Bar Association Room No. 05, High Court, Calcutta.
15. MIS Cell of this department.
They are requested to upload this Order in the department's website.
16. Guard File.
17. Office copy.


Joint Secretary
Panchayat & Rural Development Department
Government of West Bengal