

DL-8

22.09.2023
Court No.5
(AD)

WP.ST 115 of 2019

**State of West Bengal & Ors.
Vs.
Tulshi Rani Dey**

Mr. Tapan Kukmar Mukherjee
Ld. Sr. Advocate & Ld. AGP
Mr. Pinaki Dhlole
Mr. Somnath Naskar
... for the State-petitioners.

The writ petition is directed against an order dated August 7, 2018 passed in OA 42 of 2016 by the West Bengal Administrative Tribunal.

By the impugned order, the Tribunal directed the State to comply with a letter dated March 8, 2016 issued by the Joint Secretary, Government of West Bengal, Department of Land and Land Reforms, DE Branch. The Tribunal also directed the Principal Secretary to take necessary steps on the basis of the letter of the District Magistrate and Collector, Birbhum dated May 19, 2014.

The original applicant before the Tribunal retired from the post of Upper Division Clerk on January 31, 2004. A departmental proceeding was initiated as against him. It was founded on a criminal case which was ultimately quashed. The departmental proceeding was dropped by an order dated September 24/27 of 1992. Relevant portion of which is as follows:

“Sri Narendra Ch. Dey UDC is reinstatement in service with immediate effect but he should not be posted in Treasury or any post involving cash or financial transaction of any kind whatsoever for the rest of his service life. Sri Dey is entitled to get the following on his re-instatement.

- a) The period of his suspension shall be treated as a period of spent on duty.*
- b) His pay & allowances shall be paid to him for period of his suspension ending with his reinstatement as admissible per rules subject to adjustment in respect of subsistence allowances already paid.”*

The terms of his reinstatement in service in the departmental proceeding takes away a large chunk of promotional avenue of the original applicant. The original applicant accepted the order of reinstatement.

Claim before the Tribunal was of grant of promotion.

Promotion sought for by the original applicant was in respect of a post which was of the nature, covered by the order of the reinstatement that is to say that, he need not be posted in the treasury or any postings involving cash or financial transaction of any kind whatsoever.

The two letters of the authorities which the Tribunal directed implementation of, conceived of grant of promotion to a post which was prohibited by the order of reinstatement.

In such circumstances, we set aside the impugned order of the Tribunal.

WP.ST 115 of 2019 is allowed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

