

47 **16.01.
2023**
Ct. No. 04

Ab

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.

WP.ST 129 of 2022

Amitava Banerjee
Vs.
The State of West Bengal and others.

Mr. Rajendra Chakraborty,
Mr. S. Roy Chowdhury,
Mr. J. Chakraborty,
Mr. Dipjyoti Chakraborty.
... for the petitioner.

Mr. Arjun Ray Mukherjee.
... for the State.

Mr. Suman Basu,
... for the respondent no. 4.

The instant writ petition has arisen from an order dated 16th August 2022 passed by the West Bengal Administrative Tribunal in OA 150 of 2022 whereby and whereunder the tribunal application was disposed of without granting any relief to the writ petitioner.

The grievance of the writ petitioner, as it appears from the instant application, relates to a denial of promotion on the basis of the draft gradation list, which was published by the authority. It is stated in the instant application that the juniors in the said draft gradation list were given promotion, although after the writ petitioner retired from service, with retrospective effect i.e. the date prior to the date of superannuation and, therefore, the writ petitioner ought to have been placed in their position and should be extended the monitory benefit.

Such being the pleadings made in the said tribunal application, we find that the Tribunal proceeded to dismiss the said application solely on the score that

after publication of the draft gradation list, the writ petitioner did not file any objection and in absence thereof, no relief can be granted to the writ petitioner.

It is not a case of challenging the draft gradation list by putting an objection but was a case of implementation of the said draft gradation list and deprivation of the writ petitioner to be appointed at the promotional post and extended the monitory benefit attributable thereto.

The order impugned is passed on the misconstruction of the facts and, therefore, cannot be sustained. The order impugned is, thus, set aside.

The matter is remitted to the Tribunal to decide the matter afresh upon giving an opportunity of hearing to both the parties and endeavour shall be shown to dispose of the same within three months from the date of communication of this order.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

