

06-02-2024  
ct no. 13  
Sl. 18  
sp

WPA 3075 of 2023  
With  
CAN 1 of 2023  
Bedadyuti Bhowmik  
**-Versus-**

The State of West Bengal & Ors.

Mr. Biswarup Biswas,  
Mr. Debnarayan Patra,  
Mr. Nimalendu Patra,  
Mr. Arijit Bera

...for the petitioner

Mr. Arindam Chatterjee,  
Ms. Lipika Chatterjee

...for the State

Mr. Soumya Majumder,  
Ms. Sanjukta Dutta

...for the respondent nos. 2 to 5

1. This Court has considered the report submitted on behalf of the respondent nos. 2 to 5 as also the exception filed by the petitioner.
2. It appears from the report that both Tapas Kumar Mukherjee and Dipak Kumar Das came into the LDC post as promotees. By the application of settled principles of law, a promotee is required to be placed above a direct recruit.
3. After the petitioner was notionally granted a promotion with effect from 01.06.2022, to the post of Office Superintendent, the

Council received representations from Dipak Kumar Das for also being granted notional promotion.

4. Based on the fact that Dipak Kumar Das was a promotee to the LDC post, he was deemed senior to the petitioner. However, another LDC Tapas Kumar Mukherjee who retired on January 31, 2024, was also found senior to the petitioner. They were both granted notional promotion to the post of Office Superintendent in place of the vacancy created by '*Kohinur Sarkar*' on May 31, 2022.
5. The petitioner has retired on December 31, 2022.
6. Counsel for the respondent, therefore, seeks to justify the rectification of the effective promotion dated of the petitioner, i.e., from June 1, 2022 to September 1, 2022.
7. This Court without going into the particulars and details of the stand taken by the Council, directs that the yearly increment which the petitioner would have received, had he been notionally promoted from June 1, 2022, must be

allowed to him as an exception and without creating any precedent.

8. In that view of the matter, let the last drawn salary of the petitioner include annual increment, which he would have been entitled had he been promoted on June 1, 2022 to the post of Office Superintendent.
9. Let all retiral dues after issuance of revised PPO based on the aforesaid direction be made available to the petitioner within a period of one month from date.
10. With the aforesaid directions, the instant writ petition shall stand disposed of.
11. Consequently, CAN 1 of 2023 shall also stand disposed of.
12. There shall be no order as to costs.
13. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

**(Rajasekhar Mantha, J.)**