

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

HEARD ON: 09.12.2025
DELIVERED ON: 09.12.2025

**CORAM:
THE HON'BLE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE JUSTICE PARTHA SARATHI SEN**

**WP.CT. 83 of 2025
Union of India & ors.**

Versus

Shri Abani Mukhi & Anr.

Appearance:-

Mr. Shyamal Kr. Mukherjee

Mr. Shaunak Ghosh for the Petitioners

Mr. Jagadish Ch. Das for the respondents

JUDGEMENT (ORAL):

SUJOY PAUL, ACJ:-

1. This petition under Article 226/227 of the Constitution takes exception to the order of Central Administrative Tribunal (hereinafter referred to as 'tribunal') dated 20.12.2024 passed in OA 350/1953/2021 (Kolkata).
2. Briefly stated, the case of the respondent/applicant therein was that he entered employment and attained the age of superannuation in 2018. His grievance was that he was not given promotion to H.S. Grade-II with effect from 01.01.2006. On 25.06.2020, a recommendation was passed and on the strength of this recommendation, the said OA was filed in the year 2021. The tribunal solely impressed with the said recommendation of 2020,

allowed the original application and directed ante-dated promotion of respondent herein from 2006 with further direction to pay difference of pay and allowances from 01.01.2006 and accordingly, directed to recalculate and pay the pensionary benefits and other consequential benefits arising thereto.

3. The stand of the department is that the OA was hopelessly barred by time. The applicant was claiming benefit, which allegedly, arose on 01.01.2006. He stood retired in 2018. He filed the OA in 2021. The said recommendation was never accepted by the competent authority.
4. Learned counsel for the department submits that the tribunal has erred in not dismissing the OA on the ground of delay and entertained the same on the basis of recommendation, which never translated into reality after acceptance by the competent authority.
5. Learned counsel for the respondent/applicant on the other hand submits that the recommendation dated 25.06.2020 is in his favour. The department never denied that such recommendation exists and not accepted by the competent authority. Merely because certain audit objections arose against the said recommendation dated 25.06.2020, it was not justifiable on the part of the department in not implementing the said recommendation.
6. The parties confined their arguments to the extent indicated above.
7. We have bestowed our anxious consideration on rival contentions and perused the record. Admittedly, the prayer clause of the present respondent in the OA shows that he was claiming his promotion as High Skilled Grade-

II with effect from 01.01.2006 with all consequential benefits including pensionary benefits.

8. Admittedly, respondent retired in the year 2018. No doubt the recommendation came into being on 25.06.2020 but there is no iota of material before us to establish that such recommendation was indeed accepted by the competent authority. The 'recommendation' cannot be equated with an 'order' passed by the competent authority. The recommendation can be translated into reality and put into action only when competent authority accepts it and passes an order to implement the same. Otherwise, recommendation alone does not give any cause of action to the respondent.
9. The entire OA was perused by us and there exists no averment that said recommendation dated 25.06.2020 was accepted by the competent authority and a consequential order for its implementation was passed. In absence of this elementary pleading in the OA, there was no occasion for the department to deny the same.
10. The tribunal, in our opinion, committed a mistake in treating the 'recommendation' as an 'order'. There is no iota of reason assigned by the tribunal as to why the said recommendation was held to be binding on the department.
11. The applicant before tribunal was claiming relief of promotion from 2006 after his retirement in 2018 in a petition filed in 2021. The same is hopelessly barred by time in view of section 21 of Administrative Tribunals Act, 1985. The tribunal has failed to examine the matter on the anvil of inordinate delay.

12. For these cumulative reasons, we are unable to countenance the impugned order of the tribunal. Resultantly, the order dated 20.12.2024 passed in OA 350/1953/2021 (Kolkata) is set aside.
13. The petition is allowed.

(SUJOY PAUL, ACJ.)

I agree.

(PARTHA SARATHI SEN, J.)