

Present ---
The Hon'ble
&
The Hon'ble

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

FREE COPY

Case No. O.A. – 876 of 2014

State Agricultural Technologists Service Association -Vs- The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
01 05.9.2014	For the Applicant : Mrs. C. Chowdhury, Mr. D. Saha, Ld. Advs. For the Respondents : None. Seen affidavit of service. Let it be kept with the record. None appears to represent the State respondents despite due service of notice. Under the circumstances, we have heard Ld. Lawyer for the petitioner and perused the application. At the outset, leave is granted to file the application jointly for the purpose of common interest involved in the matter. In the instant application, the petitioner has prayed for an order declaring the Notification dated 18.07.2014 to be bad in law on the alleged ground that the said Notification is contrary to law as in that Notification, the word 'appoint' has been used instead of the word 'transfer'. By this Notification, the Governor has been pleased to appoint three officers holding the post of Joint Director of Agriculture to the post of Additional Director of Agriculture and to post them as mentioned in the list enclosed to the said Notification	



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State Agricultural Technologists Service Association

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	without any change in the scale of pay or grade pay. Ld. Lawyer for the petitioner has drawn our attention to the recruitment rules for various posts in the West Bengal Agricultural Service (Administration) including the post of Additional Director of Agriculture and Project Coordinator & Ex-Officio Additional Director of Agriculture published under Notification No. 2224-Estab. (Dte.) dated 29.06.2009 wherein it has been specifically provided that recruitment to the posts of Additional Director of Agriculture and Project Director & Ex-Officio Additional Director of Agriculture shall be by transfer from the confirmed officers holding the post of the Joint Director of Agriculture. Ld. Advocate for the petitioner contends that by using the term 'appoint' instead of the term 'transfer' in the impugned Notification, the authorities are trying to apply the policy of reservation for candidates belonging to Scheduled Castes and Scheduled Tribes in the matter of recruitment to various post in the service other than the posts at the entry level, which is not permissible in the case of transfer. This will affect the interest of the petitioners. Therefore, the order dated 18.07.2014 should be declared invalid and contrary to law and the respondent authorities should be directed to fill up different posts in the service other than the posts at the	Contd....

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	entry level by transfer in accordance with the recruitment rules. We have considered the submission and perused the relevant recruitment rules and other connected documents. We do not find much force in the contention of the Ld. Advocate for the petitioner. Appointment is a generic term and is used in all cases of recruitment, whether it is by way of direct recruitment, promotion, selection or transfer. Whether the appointment is by way of direct recruitment, promotion, selection or transfer is to be decided in terms of the recruitment rules, and in the instant case, it is clear and unambiguous from the recruitment rules that the appointment to the posts of Additional Director and Project Coordinator and Additional Director of Agriculture as made by the order dated 18.07.2014 is to be treated as appointment by way of transfer of the concerned Joint Directors of Agriculture. The fact that the word 'appoint' has been used in place of the word 'transfer' in the order dated 18.07.2014 does not make the order invalid or contrary to law. We have, however, not gone into the question of applicability of the policy of reservation for candidates belonging to Schedules Castes and Scheduled Tribes in so far as the present application is	 Contd....

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	concerned. With the above observations, we dispose of this application. Plain copy to the petitioner.	

Sd/- SAMAR GHOSH
MEMBER (A)Sd/- S. K. CHAKRABARTI
CHAIRMAN-IN-CHARGE**PLAIN COPY**

N3 17/09/14.

Section Officer
West Bengal Administrative Tribunal