

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble Mr. P. Ramesh Kumar (Administrative Member)

Case No – OA 119 OF 2019

MOUMITA BASAK 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
<p>5</p> <hr/> <p>18.07.2019</p>	<p>For the Applicant : Mr. A.K. Lahiri, Mr. D. Koley, Advocates</p> <p>For the Respondents : Mr. G.P. Banerjee, Advocate</p> <p>The matter was heard on 17th July, 2019 and was directed to appear today under the heading “For Orders” . The matter has appeared as “For Orders”.</p> <p>In this application, the applicant, belonging to Other Backward Class, Category “B”, has prayed for a direction upon the respondents to declare her as selected for the post of ‘Lady Constable’ in West Bengal Police and to include her in the list of selected candidates for the said post.</p> <p>Mr. D. Koley, learned advocate led by Mr. A.K. Lahiri, learned advocate for the applicant, submits that since admittedly the applicant belongs to OBC ‘B’ category, as evident from the certificate dated 5th June, 2015, and though she could not submit certificate after renewal at the time of interview, which was held on 28th December, 2018 and as the certificate was renewed on 8th</p>	

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	<p>January, 2019, as evident from page 21 of the Original Application, appropriate order may be passed. In support of his submission he has relied on the judgement of the Supreme Court in Ram Kumar Gijroya Versus Delhi Subordinate Services Selection Board and Another : (2016) 4 SCC 754.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondent relying on the reply submits that though the applicant belongs to OBC 'B' category, however, on the date of interview, that is on 28th December, 2018, as she was unable to furnish renewed certificate, which she had undertaken to produce, as evident from the annexure 'R-1' to the reply filed by the State, no order may be passed. In this regard he has also relied on the memorandum dated 27th July, 2015, particularly paragraph 14 thereof, which speaks of renewal of caste certificate of OBC. Mr. Banerjee submits, on instruction, that even the certificate has not been filed at all in the department. According to him such renewal has to be made from time to time to verify whether one belongs to the creamy layer status or not.</p> <p>Admittedly the applicant belongs to OBC 'B'. The applicant had participated in the selection process, including the written examination and the interview, which was held on 28th December, 2018. On the date of</p>	

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	<p>interview she could not produce the revalidated certificate or renewed certificate. Since the applicant had undertaken, as evident from annexure 'R-1' to the reply, that she would submit the revalidated certificate which was not produced on the date of interview, the applicant cannot claim for reliefs as prayed for. In this regard it is also pertinent to refer to paragraph 14 of the memorandum dated 27th July, 2015 which is as under :</p> <p style="text-align: center;">“14. Renewal of Caste Certificate of OBC : Since issuance of OBC certificate is dependent on the ‘Creamy layer’ status which is supposed to change in every year so the certificate holder may approach for revalidation / renewal of the certificate. In fact this revalidation / renewal is of vital importance in regard to securing an employment. Consequently if someone approaches for renewal / revalidation with an attested proof of not belonging to creamy layer status then the certificate can be renewed and fresh certificate issued. This is accommodated in the online system of issuance of certificate.”</p>	

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SCN	<p>Evidently, renewal of caste certificate of OBC depends on creamy layer status which is to change every year. The applicant in this application has furnished certificate of 2015 and it has not been demonstrated that it was renewed / revalidated every year. The certificate dated 8th January, 2019, annexed at page 21 of the Original Application, was issued after the date of interview. The judgement in Ram Kumar Gijroya (Supra) is not applicable as though a certificate is an affirmation of the fact that the candidate belongs to the OBC 'B' category, however, the stipulations of paragraph 14 of the memorandum cannot be overlooked. Hence, for the reasons as aforesaid, no order can be passed on this application. The application is disposed of.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	