

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 861 OF 2017****SAJAL DAS 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 style="text-align: center;">9</p> <hr/> <p>17.07.2019</p>	<p>For the Applicant : Mr. A. Gupta, Ms. I. Ray, Advocates</p> <p>For the State Respondent : Mr. G.P. Banerjee, Advocate</p> <p>For the State Respondent : Mr. A.L. Basu, Mr. S. Bhattacharya, Advocates</p> <p>The applicant, stated to be in the exempted category, had applied for the post of Sub-Inspector in Sub-ordinate Food & Supplies Service in the year 2014. It has been stated that the final list was published on 17th January, 2017 wherefrom it is evident that though the applicant had cleared written examination, but he was not called for interview. Submission is though the applicant had submitted the E.C. certificate before the authorities within the stipulated period, however, he was not selected and appointed as the West Bengal Staff Selection Commission, which had conducted the selection process could not trace the certificate. It is submitted by Mr. A. Gupta, learned advocate for the applicant, that since it is evident from the reply under the Right to Information Act,</p>	

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	<p>2005, appearing at page 33 of the Original Application, that as the Staff Selection Commission maintained a register of E.C. certificates filed, though it did not issue any receipt / acknowledgement to the candidate, since certificate was submitted, appropriate order be passed directing appointment to the applicant.</p> <p>Mr. A.L. Basu, learned advocate on behalf of the West Bengal Public Service Commission submits that the West Bengal Staff Selection Commission, wound up on 17th September, 2017, got merged with the West Bengal Public Service Commission. As West Bengal Act XIV of 1999 applies to the West Bengal Public Service Commission and as under section 3 of the said Act unless by notification the State government declares any class or categories of the persons under exempted category and as no such notification has been issued, no order may be passed. On instruction it is submitted that by notification dated 16th June, 2017, the recruitment process conducted by the West Bengal Staff Selection Commission is deemed to have been conducted by the West Bengal Public Service Commission. However, no challenge has been made to the said notification issued pursuant to the West Bengal Staff Selection Commission (Repealing) Act, 2017.</p> <p>Mr. G.P. Banerjee, learned advocate appearing</p>	

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	<p>on behalf of the State respondents adopts the submission of Mr. Basu.</p> <p style="text-align: center;">Heard Mr. Gupta, Mr. Basu and Mr. Banerjee, learned advocates for the parties. Admittedly, the West Bengal Staff Selection Commission was wound up in September, 2017 and merged with the Public Service Commission, West Bengal. There is no dispute that the instant recruitment process was done completely by the Staff Selection Commission and a notification has been issued under which it has been notified that it is deemed that the Public Service Commission, West Bengal had undertaken the selection process. Though section 1 (4) of the West Bengal Act XIV of 1999 brings within its purview the Public Service Commission, West Bengal, however, under section 3 of the said Act, it has been stipulated that :</p> <p style="text-align: center;">“3. The State Government may, from time to time, by notification, -</p> <p style="text-align: center;">(a) declare any class or category of persons to be exempted category for the purposes of this Act”</p> <p style="text-align: center;">In the instant case, since it is deemed under the notification under 2017, the Public Service Commission,</p>	

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SCN	<p>West Bengal conducted the selection process, however, as no notification has been issued under section 3 of the 1999 Act declaring any class or category of persons under the exempted category, no order can be passed on this application. Hence, the application is disposed of.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	