

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

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Subesh Kumar Das

Case No – OA 664 OF 2015

HUMAYUN KABIR 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>13</p> <hr/> <p>07.06.2018</p>	<p>For the Applicant : Mr. M. Rahaman Learned Advocate</p> <p>For the State Respondent: Mr. Sankha Ghosh Learned Advocate</p> <p>For the P.S.C., West Bengal : Mr. A.L. Basu Mrs. M. Dhar Chowdhury Learned Advocate</p> <p>The applicant participated in the selection process for recruitment to the post of Agricultural Marketing Officer (Administrative) in West Bengal Junior Agricultural Services (Marketing), under the Department of Agriculture, Government of West Bengal in response to the advertisement published by the Public Service Commission, West Bengal in the “Anand Bazar Patrika” on August 6, 2011. The essential qualifications for recruitment to the post are as follows :</p> <p>(i) Masters Degree or Honours Degree in Economics or Statistics or Commerce or Agriculture from recognised university.</p> <p>(ii) Experience of one year in agricultural marketing or statistical survey in an organisation of repute.</p>	

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	<p>(iii) Knowledge of Bengali / Nepali both written and spoken.</p> <p>There was also need of desirable qualification of Degree of Law for recruitment to the said post of Agricultural Marketing Officer.</p> <p>The contents of reply submitted by the respondent, Public Service Commission, West Bengal disclose that the petitioner belongs to OBC-A category and out of total 58 candidates who submitted application in response to the advertisement, only two candidates were selected for the interview. The reply further indicates that out of two candidates only the applicant appeared before the Interview Board and obtained 30 marks in the interview. The full Commission resolved that the cut-off marks for selection of OBC-A category of candidates in the interview will be 38. Since the applicant obtained thirty marks in the interview, he was not selected for the post of Agricultural Marketing Officer. Learned Counsel for the applicant has relied on two unreported decisions of Hon'ble High Court at Calcutta in support of his contention that the cut-off marks for interview must be disclosed in the advertisement or in the Rules in default the Public Service Commission is bound to recommend the names of the applicant who was the sole candidate for the post of Agricultural Marketing Officer. In the case of</p>	

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	<p>“Bedanga Talukdar v. Saifudaullah Khan & Ors.” reported in (2011) 12 SCC 85 cited by the Learned Counsel for the applicant the Hon’ble Supreme Court has laid down in paragraph 29 of the Judgement that there cannot be any relaxation of the terms and conditions of the advertisement unless such power is specifically reserved in the relevant statutory rules. In the instant case, there is no question of relaxation of terms and conditions of the advertisement published by the Public Service Commission, West Bengal in the newspaper, as the criteria for selection of the candidate by conducting interview is specifically mentioned in the said advertisement. Accordingly the said reported case does not help the applicant in the instant case as there is no question of relaxation of the terms and conditions disclosed in the advertisement.</p> <p>In the case of “Public Service Commission & Anr. v. Abdul Haque & Ors.” And other connected matters (WPST No. 67 of 2016 and other connected matters disposed of on November 16, 2003) cited on behalf of the applicant, the Hon’ble High Court held that in the absence of prescription of cut-off marks in viva voce in the statutory rules, the Commission had no power to prescribe the minimum standard at viva voce test for determining suitability of the candidates. In the said unreported case the Public Service Commission selected</p>	

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SCN.	<p>candidates on the basis of written test and viva voce and the rules prescribed for selection through written test and viva voce test. In the instant case the selection of the candidate was done only on the basis of interview as disclosed in the advertisement published in the newspaper and as such, the facts of the present case are clearly distinguishable from the facts of the unreported case and thereby the ratio of the unreported case is not applicable in the present case.</p> <p>In view of our above findings, we are unable to accept the contention made on behalf of the applicant that the minimum cut-off marks cannot be fixed by the commission for selection of a candidate on the basis of terms and conditions disclosed in the advertisement. The logical inference is that there is no merit in the present application and as such, the application is dismissed.</p> <p>Let a plain copy of the order be supplied to both parties.</p> <p>An urgent xeroxed certified copy of the order, if applied for, be supplied to the applicant on priority basis on fulfilment of necessary legal formalities.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(R.K. Bag) MEMBER (J)</p>	