

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. – CCP 40 OF 2022 (OA 511 OF 2020)

**ANJAN KUMAR PATRA & ANR. - VERSUS - SHRI NARENDRA NATH DATA, WBCS(EXE.),
SECRETARY AND CONTROLLER OF EXAMINATIONS, WEST BENGAL
HEALTH RECRUITMENT BOARD, GOVERNMENT OF WEST BENGAL & ORS.**

Serial No. For the Applicant : Mr. Sankha Ghosh,
and Advocate
Date of For the Alleged Contemnor / : Mr. Gautam Pathak Banerjee,
order Opposite Party Advocate
13
10.02.2023

The matter is taken up by the single Bench pursuant to the order contained in the Notification No.638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the parties, the case is taken up for consideration sitting singly.

The Tribunal, in its order dated 06.08.2021 had passed an order directing the respondent No.3 in the following words:

“...to take a decision regarding the appointment of the applicants, if found suitable, by passing a reasoned order to be communicated to the parties within fifteen weeks.....”

In compliance the respondent passed the reasoned order dated 04.07.2022. The operative part is as under:

“It is also to be noted here that the issues dealt with the Original Application No. 352 of 2014 are directly and substantially same with the matter which have been still pending before the Hon'ble High Court, Calcutta being Case No. W.P.S.T. 47 of 2022.

It is true that no appeal has been preferred as against to the Order dated 09.12.2016 passed by the Learned West

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*Bengal Administrative Tribunal in connection with O.A. No.
352 of 2014 as yet.*

ORDER:

*As the issues are directly and substantially same and
under sub-judice before the Hon'ble High Court, Calcutta as
stated above I am of the opinion that the prayer of the
applicants cannot be accepted.*

Thus, the matter is disposed of.”

Submission of Mr. S. Ghosh, learned advocate for the applicant is that the alleged contemnor did not comply at all with the direction of the Tribunal which was to consider his application for appointment, if found suitable. He also submits that nowhere in the Tribunal's direction there was any reference or guidance to the respondent to rely on W.P.S.T. 47 of 2022 pending in Hon'ble High Court. Instead of limiting his reasoned order within the ambit of the Tribunal's direction by passing a reasoned order, the alleged contemnor has taken refuge in a matter pending in the Hon'ble High Court. Thus, the Tribunal's order was not complied and no reasoned order commensurate with the Tribunal's order was passed and communicated. Prayer is that the reasoned order be set aside with a direction to pass a fresh order.

Mr. G.P. Banerjee, learned advocate for alleged contemnor, however, submits that the respondent had passed the reasoned order substantially in compliance with the Tribunal's order. The reference to the W.P.S.T. 47 of 2022 in his reasoned order was very relevant for this case.

After hearing the submissions of the learned advocates and perusing the records, I am of the view that the alleged contemnor has failed to comply with the Tribunal's order. It appears that instead of considering the suitability of the candidates for appointment, the alleged contemnor has, by relying on another matter, which may be similar in nature, has passed a reasoned order without going

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into the merit of the case. Had the alleged contemnor assessed the suitability of the applicants for the post, complied and if found suitable had given appointment or on the contrary, if found not suitable, by passing a reasoned order, had rejected the application, the Tribunal would have been satisfied.

Therefore, it is the opinion of the Tribunal that the reasoned order so passed by the alleged contemnor has not at all complied with the Tribunal's order dated 06.08.2021. The reasoned order dated 04.07.2022 is set aside and quashed with a direction to the alleged contemnor No.1, the present Secretary and Controller of Examinations, West Bengal Health Recruitment Board to pass a reasoned order afresh strictly in terms of the Tribunal's order dated 06.08.2021 within a period of eight weeks from the date of communication of this order.

Let the matter appear under the heading "Orders" on 13.06.2023.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.