

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. –OA 242 OF 2024

SUDARSAN GURIA - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mr. Rahul Kumar Singh, Learned Advocate
	For the State Respondents	:	Mr. Gautam Pathak Banerjee, Learned Advocate
<u>9</u> 22.04.2025	For the Public Service Commission, West Bengal	:	Mr. Saurav Bhattacharjee, Learned Advocate
	For the Principal Accountant General (A&E), West Bengal	:	Mr. Biswanath Mitra, Departmental Representative

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.

A copy of memo No.160 dated 17.04.2025, issued by the Deputy Director of Health Services, filed by Mr. Banerjee, learned counsel for the respondent authority, be kept on record.

The prayer in this application is for a direction to the respondent authorities for quashing the impugned memo dated 25.04.2024 and to allow the applicant to continue at the post of Lecturer in Electrical Engineering discipline of Mathabhanga Government Polytechnic and to confirm his services.

By this impugned memo the Department of Technical Education, Training and Skill Development, terminated the provisional appointment of the applicant for the post of Lecturer in Electrical Engineering of Government Polytechnic. Such termination was on the ground that the medical examination conducted by the Medical Board found the applicant unfit for possessing below 40% disability (PHOH) and thus, unfit for such post. This termination order was successfully assailed by the applicant before the Hon'ble High Court by way of filing W.P.S.T. 108 of 2024. The Hon'ble Court, in its order dated 21st May, 2024, stayed operation of the impugned order. The SLP, vide Civil Appeal No.40225 of 2024, filed on behalf of the State side, was dismissed by the Hon'ble Supreme Court on 4th October, 2024. This Tribunal, in its order dated 20.02.2025, had directed the Principal

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Secretary, Health and Family Welfare Department, to advise the Appellate Medical Board, under the West Bengal Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1999 to initiate and complete the process of verification of Disability Certificate expeditiously by examining his percentage of disability. The Deputy Director of Health Services, in his memo No.160 dated 17.04.2025, enclosed the Minutes of Meeting of the Expert Committee (Appellate Medical Board for Disabilities), which has determined 46% disability of the applicant. This Expert Committee was comprised of three experts along with the Additional Secretary, Health and Family Welfare Department, and the Director of Health Services. Both the sides have agreed that by this report of the Expert Committee, the percentage of disability of the applicant at 46% qualifies the applicant for the post of Lecturer in Electrical Engineering of Government Polytechnic under PH quota.

Having heard the submissions of the learned counsels and in the light of the report of the Expert Committee (Appellate Medical Board for Disabilities), clearly indicating disability percentage at 46%, the Tribunal is of the opinion that the impugned order dated 25.04.2024, passed by the Additional Secretary, Department of Technical Education, Training and Skill Development is liable to be quashed and the same is quashed and set aside with a further direction to allow the continuity of service of the applicant. Further the respondent No.2, Additional Secretary, Department of Technical Education, Training and Skill Development, is directed to consider the confirmation of the applicant in the post of Lecturer, if he otherwise fulfils the requisite criterias.

With the above direction, this application is disposed of.

SCN.

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