

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. OA – 760 of 2022

Puja Mondal - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. S. Raul, Advocate
<u>6</u> 08.02.2024	For the Respondent No. 1 & 2	: Mr. G.P. Banerjee, Advocate
	For the Respondent No. 3	: Mr. D. Koley, Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 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, the case is taken up for consideration sitting singly.

The prayer in this application is for a direction to the respondents to appoint the applicant in the post of Staff Nurse (GNM), Grade – II under E.W.S. category.

Submission of the applicant is that the advertisement issued by the West Bengal Health Recruitment Board for recruitment of Staff Nurse (GNM), Grade – II has no reservation for the E.W.S. candidates.

In reply, Mr. D. Kole, learned advocate appearing on behalf of the West Bengal Health Recruitment Board submits that vacancies published in the advertisement were issued as per the requisition made by the Department of Health and Family Welfare and in this requisition, there was no vacancy to be filled up for candidates belonging to E.W.S. category.

Mr. Raul, learned counsel for the applicant refers to a Memorandum No. 36039 dated 31.01.2019 issued by the Government of India in which para 2 is relied upon, which is as under :

“The persons belonging to EWSs who are not covered under the scheme of reservation for SCs, STs and OBCs shall get 10% reservation in direct recruitment in civil posts and services in the Government of India.”

In response Mr. Kole, learned counsel for the State respondents submits that this

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Memorandum is applicable for civil posts under Government of India, therefore, this Memorandum is not relevant for the post of Staff Nurse (GNM), Grade-II which is a post under the State Government. Further, Mr. Kole refers to the report of the Respondent No. 2(i)(c), the relevant part is as under :

“It is for your information that the vacancy report sent by H&FW Dept, copy is attached herewith, does not contain any special vacancy for Economic Weaker Section Category. So the vacancies published in the advertisement issued by this Board do not contain any vacancy for Economic Weaker Section Category. Moreover, WBHRB has no jurisdiction to go beyond the requisition of vacancies submitted by H&FW Deptt.”

Disagreeing with the submission of Mr. Kole and the reply, Mr. Raul files a copy of Notification No. 959-BCW dated 18.05.2023 and referring to para 2 submission is that the persons belonging to EWSs are to get 10% reservation in civil posts and services in all the wings of the Government of West Bengal, the relevant part is as under :

“The persons belonging to EWS shall get 10% reservation in direct recruitment in civil posts and services in all its departments/boards/corporations/local bodies in the Government of West Bengal and also in admission to Educational Institutions in the state of West Bengal.”

After hearing the submissions of the learned counsels and perusal the records in this application, the Tribunal comes to the finding that at the material point of time when the applicant appeared for the examination such 10% reservation was not in force for candidates belonging to Economically Weaker Sections (EWSs). Later by a Notification No. 959-BCW/MR-52/2019 dated 18.05.2023, the State Government implemented 10% reservation in direct recruitment in civil posts and services in its departments / boards / corporation / local bodies in the Government of West Bengal and also in admission to Educational Institutions in the State. Therefore, from the above Notification, it is clear that such reservation came into force only from 18.05.2023. It is also clear that the reservation for EWS was not available at the time the applicant participated in the recruitment process during 2021. Therefore, the Tribunal does not find any merit in the prayer of this application, which is for a direction to give

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appointment to the applicant for the post of Staff Nurse (GNM), Grade – II under EWS category and the application is disposed of without passing any orders.

**SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)**

A.K.P