

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Officiating Chairperson and Member (J).

Case No. OA – 927 of 2015

Sukumar Debnath & Another - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicants : Mrs. S. Agarwal,
and Advocate

Date of order

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28.09.2022

For the State Respondents : Mr. S. N. Ray,
Advocate.

For the Public Service Commission, W.B. : Mr. S. Bhattacharjee,
Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536 – WBAT / 2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant had initially filed this O.A. No 927 of 2015 praying for appointment to the post of Assistant Sub-inspector of Excise against the Notification dated 27.12.2013 for filling up of 246 vacancies with following break up of vacancies:

Sl. No.	Category	Total vacancy	EC
1.	UR	135	39
2.	ST	54	16
3.	SC	15	5
4.	BCA	25	8
5.	BCB	17	5

In pursuance to the said Notification, the applicant submitted his application on 06.04.2014, when the list of 192 selected candidates was published. Subsequently, three lists of nominated candidates of A.S.I., Excise were published in three phases. Out of which, in the second list of nominated

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candidates, the name of the applicant was reflecting against serial No. 9 (Annexure 'G' to the O.A.). However, again modified list of nominated candidates of Excise with regard to the second list (Annexure 'H' to the O.A.) was published. Though, in the second list, his name was reflected against serial No. 9, whereas in the modified list, he did not find his name. However, subsequently again another list of nominated candidates for third phase was published indicating the categories, sub-categories as well as marks (Annexure 'A' to the supplementary affidavit). It is submitted by the applicant that from the perusal of the three lists of nominated candidates, it would transpires that in the first list there is no mentioning of categories or sub-categories and marks and in the second list, only there is mentioning of categories and sub-categories, but without marks, whereas in the third phase list, against the nominated candidates, categories, sub-categories and marks are indicated. As per the applicant, as in the second nominated list, his position was 5th in serial no. 9 within the BC-B (EC) category and as per him, there are only five vacancies, therefore, he was in the expectation that he may be accommodated against 5th vacancy. As no marks were indicated against his name and some lower marks holder was nominated as per third phase, therefore, he was in expectation that the first two candidates in the second list of BC-B i.e. Sukdeb Banik and Dipak Biswas was accommodated against the UR vacancies due to their higher marks. It has been further submitted by the applicant that there are 39 vacancies for the unreserved category but 40 vacancies were accommodated.

However, the counsel for the respondent has vehemently submitted that though no reply was filed by the State Respondent in the first phase, however, the SSC had filed their reply. In paragraph 4 of their reply to O.A., SSC had specifically mentioned that out of five vacancies, two vacancies were filled up by the first list candidates, therefore, only three vacancies are left to be filled up and

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as the applicant was in fifth in position, therefore, out of five nominated candidates in the original second list, only three vacancies were left to fill up. Therefore, he could not be accommodated against this. However, the counsel for the State Respondent as well as Public Service Commission has prayed for one chance to file comprehensive reply against the O.A. as well as supplementary affidavit.

In view of the above, the respondents are granted last chance to file a comprehensive reply specifically indicating the comparative marks obtained by all the candidates from first list to third list in their reply as the matter were remanded back by the Apex Court by their order dated 20.09.2022 passed in Civil Appeal No. 5872 of 2022 to hear the matter denovo within 30.11.2022.

Let the matter be listed on **09.11.2022** under the heading ‘**Specially Fixed Matter**’.

A.K.P. In the mean time, the respondents are directed to file reply after communicating same to the counsel for the applicant in seven days advance.

URMITA DATTA (SEN)
Officiating Chairperson and Member (J)