

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. – OA 102 of 2021

**PROGRESSIVE UNITED ENGINEERS' ASSOCIATION & OTHERS - VERSUS -
THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	: Mrs. S. Mitra, Advocate
<u>2</u> 10.03.2021	For the Respondent Nos. 1 to 4	: Mr. G.P. Banerjee, Advocate
	For the Public Service Commission, West Bengal	: Mrs. S. Agarwal, Advocate

The matter is taken up by the single Bench pursuant to the notification no.949-WBAT/2J-15/2016 dated 24th December, 2020 issued in exercise of the powers conferred under sub-Section (6) of Section 5 of the Administrative Tribunals Act, 1985.

Let affidavit of service filed be kept on record.

In this application, affirmed on 4th February, 2021, Progressive United Engineers' Association & Others, the applicants, have prayed for certain reliefs, the relevant portion of which is as under:

SCN.

“a) An order directing the respondents, their agents, subordinates and successors, particularly the respondent no.1 to rescind, cancel and withdraw the employment notice 13/2020 in Annexure “A” and all action taken thereon including the examination which was held on 29.11.2020 and command the respondents to issue afresh advertisement without any restriction upon the employees of the Public Works Department and as per the recruitment rule by allowing all candidates including the applicants.

b) An order do issue directing the respondent their

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agents, subordinates and successors, particularly the respondent no.1 to hold a further examination for the post of Assistant Engineer of Public Works Department by allowing the members of the association without any restriction of age for in service candidates.”

At the very outset a query was raised as to whether the applicants not having participated in the selection process and having filed this application subsequent to the examination are entitled to the reliefs as prayed for. Further query was raised about the legal rights of the applicants to move the application. A clear answer is not forthcoming.

It is submitted by Mr. G.P. Banerjee, learned advocate for the respondent nos. 1 to 4 that as the Original Application has been filed after the examinations were over and the applicants have not participated in the selection process and the issue is a policy decision and no legal right has been demonstrated, no order may be passed.

Mrs. S. Agarwal, learned advocate for the respondent no.5 adopts the submission of Mr. Banerjee.

Heard learned advocates for the parties. Since this application has been filed on 4th February, 2021, after the examinations were over on 29th November, 2020 and the applicants have not been able to demonstrate their legal rights, no order is passed on the application. The application is dismissed.

(SOUMITRA PAL)
CHAIRMAN