

**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 1088 OF 2017**

**KOUSHIK CHATTERJEE & ORS. - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No.	For the Applicant	:	Mr. Kallol Basu,
and			Mr. Suman Banerjee,
Date of			Mrs. Sonali Mitra,
order			Learned Advocates
<u>6</u>	For the State Respondents	:	Mr. Gautam Pathak Banerjee,
04.09.2025			Learned Advocate
	For the Public Service Commission, West Bengal	:	Mr. Saurav Bhattacharjee, Learned Advocate

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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

1. Mr. Basu, learned counsel presents copies of letters addressed to him by applicant no. 39, Chandranath De and applicant no. 102, Madhurima Roy. Let the letters be kept on record.
2. Mr. Basu submits on behalf of these applicants that, as wished and prayed by them, their names may be expunged from the array of applicants. Let the names of applicant no. 39, Chandranath De and applicant no. 102 be expunged from the array of applicants.
3. The prayer in this application is for a direction to the respondent authorities to include the vacancies of all the departments which were reported to the PSC and to fill up the posts in question of Junior Engineer Civil Branch.
4. This matter was earlier heard and disposed of by the Tribunal comprising of two Members (Hon'ble Chairman & Member (A) on 26.09.2019, without passing any order after finding no merit in the application. Subsequently, by an order dated 17.08.2021, in WPST No. 109 of 2020, the Hon'ble High Court had set aside the Tribunal's order and disposed of the same by remanding the matter to the Tribunal to hear it afresh. Therefore, it has been taken up sitting singly.
5. The applicants had participated in a recruitment process conducted by the Public Service Commission as per an advertisement No. 05/2016 for filling up of the posts of Junior Engineers (Civil/Mechanical/Electrical) in West Bengal Sub-Ordinate Service of

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Engineers (Civil/Mechanical/Electrical) under the various Departments, Directorates other offices and establishments.

6. Though the number of vacancies was not declared in the advertisement, on 26.12.2016, the respondent No.2 declared the number of vacancies. The Commission published a list of 1356 successful candidates and on 20.01.2017, a list of candidates recommended for appointment was published.

7. The Department of Planning, Statistics and Programme Monitoring reported 14 vacancies vide Memos dated 22.03.2017 and 07.08.2017 and the Sunderban Development Board reported 25 vacancies vide memo dated 04.04.2017. But those were not taken into consideration by the Commission.

8. The applicants' case is that had those vacancies (14+25=39) been taken into account, they would not have been ousted from the zone of consideration.

9. On 05.02.2025 the Public Service Commission had filed a report wherefrom it appears that out of reported 83 non-joining vacancies 55 candidates had been recommended against 55 vacancies, remaining 28 non-joining vacancies could not be filled up for want of qualified candidates of different categories. From the original petition comprising 106 applicants, 32 applicants were recommended in non-joining vacancies and 74 applicants were non-recommended according to their merit. Only 53 applicants out of 74 non-recommended applicants were still agitating for the post. The last recommendation was made on 09.10.2018. The 53 applicants shown in the report do not belong to the remaining 305 vacancies as pointed out in third paragraph of the report.

10. After examination of the report submitted by the Public Service Commission, the Tribunal finds the applicants were unsuccessful in the recruitment process due to their total marks falling below the cut off marks of the last recommended candidate in respective categories. The cut off marks were as follows:

UR Category	– 127.16
OBC- A Category	– 114.50
OBC- B Category	– 122.48
SC Category	– 105.10
ST Category	– 90.88
PH (OH)	– 124.16
PH (VH)	– 122.84

Correspondingly, applicant, Tanmoy Mondal, Roll No. 1208859 under the UR

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Category, whose marks are highest among all the UR candidates, had secured 127.14, whereas the aggregate marks, obtained by the last successful candidate under the UR Category, Bhaskar Mishra, was 127.16 marks. Similarly, under the OBC-B Category, Neelam Pradhan, Roll No. 1103292 had secured 122.26 whereas the last recommended candidate, Prabhir Paul, had secured a total of 122.48 marks. Having secured lesser than the last successful candidates in these two categories, the Commission did not recommend their names for appointment.

11. Having heard the submissions of the learned counsels and after examination of the records thoroughly, the Tribunal finds that the case of the applicants is misconceived as the panel for the recruitment examination in question had expired on 08.12.2017 and the requisition letters were sent by the concerned Departments after expiry of the panel. Vacancies, which were not published within time, cannot be tagged in the recruitment process related to advertisement No.05/2016. An empanelled candidate has no legitimate right to be recommended for appointment in accordance with rules if he does not come within the zone of consideration and if vacancies did not arise and/or are not reported within the period of validity of the panel. Determination of the number of vacancies and the requisition for employees remain the prerogative of the State Government. Out of 83 non-joining vacancies, 55 were recommended for appointment, but the rest 28 could not be filled due to want of qualified candidates. Originally 106 applicants had filed this case out of which 32 were recommended in non-joining vacancies. The rest 74 applicants do not meet the merit position in the common merit list as per aggregate marks. Just because some vacancies have not been filled up, does not confer any right to an unsuccessful candidate to claim appointment.

In view of the above observations, the Tribunal has come to this convincing conclusion that there is no infirmity or illegality or procedural error or biasness in the selection process as alleged in this application. It is the usual 'participated-but-unsuccessful' syndrome, in which the unsuccessful candidates assume many faults in the process and blames the recruitment body. Thus, being devoid of any merit, the application is disposed of without passing any orders.

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

SCN.