

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. – OA 134 of 2021

MOIN MONDAL & ORS. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. Arka Maity, Advocate
<u>2</u> 24.03.2021	For the Respondents	: Mr. M.N. Roy, 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.

Heard Mr. Arka Maity, learned advocate for the applicants and Mr. M. N. Roy, learned advocate for the State respondents. The matter is admitted. Let reply be filed by 19th May, 2021. Rejoinder, if any, by 18th June, 2021. Matter to appear under the heading “Reply/Rejoinder/Objection” on 23rd June, 2021.

Mr. Maity, submits that though the last date of filing the application for the post of Constable was 20th February, 2021, however, an interim order may be passed allowing the applicants to participate in the selection process initiated by the advertisement dated 20th January, 2021. In support of his submission reliance has been placed on the judgement of the Supreme Court in Zenit Mataplast Private Limited versus State of Maharashtra and Others : (2009) 10 SCC 388 particularly the law laid down in paragraphs 37 and 38, the judgement of the Division Bench of the High Court in Sri Goutam Surul versus State of West Bengal and Others : (2011) 3 CHN 183 and the judgement delivered on 14th January, 2021 in MAT 54 of 2021 with CAN 1 of 2021 : Arpita Sarkar & Ors. versus State of West Bengal & Ors.

It appears from record that the Original Application was filed on 18th February, 2021. The last date for filing the application for the post was 20th February, 2021 which was Saturday. Admittedly the selection process started on

ORDER SHEET

Form No.

SURAJIT ADHIKARY & ORS.

Vs.

Case No. **OA 133 of 2021**

THE STATE OF WEST BENGAL & ORS.

22nd January, 2021. Though it is submitted by Mr. Maity that the application has been filed in the Registry before the last date of receiving the application, there is no explanation about the belated filing of the application. The State respondents were unaware of the filing of the application.

SCN. So far as the judgements relied on by the applicants are concerned, the judgement in Goutam Surul (supra) which deals with denial of fundamental rights to a citizen, as in this matter the applicants, being aware that the last date for filing application was 20th February, 2021, had approached the Tribunal virtually on the verge of the date of closure of receiving the applications, the said judgement is distinguishable on facts. The judgement in Arpita Sarkar (supra) is inapplicable as the applicants after waiting for a month had filed the application before the Tribunal. The law laid down in paragraphs 37 and 38 in Zenit Mataplast Private Limited (supra) does not help the cause of the applicants as the Supreme Court therein had held that injunction should be granted by the Court considering all pros and cons of the case and in the instant case the applicants had filed the application in the Registry of the Tribunal only a day before the penultimate day of receiving the application. Therefore, the applicants are not entitled to any interim order as prayed for by Mr. Maity. Hence, no interim order is passed.

Let a copy of this order be served on the learned Advocate General, West Bengal by 31st March, 2021.

(SOUMITRA PAL)
CHAIRMAN