# WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata - 700 091.

Present: HON'BLE JUSTICE SOUMITRA PAL, HON'BLE CHAIRMAN &

HON'BLE SAYEED AHMED BABA,

ADMINISTRATIVE MEMBER.

Case No. – OA 1472 of 2014.

SK. AJHAR MUNIR- VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order

For the Applicant : Mr. S. Bhattacharjee,

Advocate.

Advocate.

33 11.5.2022

For the State respondents : Mr. G.P. Banerjee,

Mr. B.P. Roy, Advocates.

In this application Sk. Ajhar Munir, the applicant has prayed for several reliefs, the relevant portion of which is as under:-

"a) To pass an order directing the respondent authorities to give immediate appointment to the applicant as the junior are given appointment who are below serial to the applicant.

b) To pass an order directing the respondents authorities to take immediate appropriate steps to issue the appointment of the applicant as below serial number are given appointment and till such no other appointment may be stayed and give appointment to the applicant within a stipulated period of time...".

We find that the applicant had participated in a selection process for Group D post in the Food and Supplies Department, Government of West Bengal. As he was not selected, this application has been filed. We find from paragraph 6.10 that the applicant has filed this application as the applicant came to know from a reliable source that the respondent authorities with malafide intention gave appointment to some persons, who, in rank, are below the applicant which according to him is unjust, unfair, unconstitutional, malafide and reveals the highhandedness of the authorities in the eye of law.

Heard Mr. S. Bhattacharjee, learned advocate for the applicant.

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Mr. G.P. Banerjee, learned advocate on behalf of the State respondents referring to the reply, particularly paragraph 5 of the application, submits as the applicant could not qualify as he stood at serial no. 161 among the General candidates and general candidates upto serial no. 157 were given appointment, no order may be passed. Mr. Banerjee further submits that the life of the panel was for one year and recruitment process is of the year 2007.

Heard learned advocates for the parties.

In order to appreciate the issue, it is appropriate to refer to paragraph 5 of the reply, which is as under:-

"With reference to paragraphs 3 and 4 of the said application I deny and dispute all contrary statements except those are matters of record. I say that the applicants after participating in the relevant recruitment process without any demur or protest do not have any locus standi to challenge the recruitment process being unsuccessful in the relevant recruitment process. It is stated that in such view of the case the said application is not maintainable. It may be mentioned that the Food & Supplies Department had published a merit list of 856 candidates. Out of the said 856 merit listed candidates, a panel containing 773 candidates out of which 273 were shown in the waiting list was prepared and published on 5th February'10. Initially 500 Group D Non-PSC posts followed by 150 Group D Non PSC posts were sanctioned with the approval of the Finance Department and Appointment Committee of the Cabinet. The applicant Sk. Ajhar Munir ranked at serial No./471 among the General candidates and obtained 41.5 marks. At the end of the entire process the applicant was placed in the panel of waiting list wherein he stood at serial No. 161 among the General candidates. From the Order No. 1301/FS Dt. 01.03.2011 issued by the Assistant Secretary of this

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Department it appears that the candidates upto serial No. 157 (Indrajit Das) in the said wait list, were allotted for appointment..".

Paragraph 5 has been dealt with in paragraph 7 of the rejoinder, which is as under:-

"....That with regard to the allegation made in paragraph no. 5 of the said reply I deny and dispute each and every statements made thereon save and except what are matters of records. I state and submit that the entire statement of the said paragraph of the reply is made after thought with the intention to deprive the applicant to get an appointment and for that interest answering respondent submitted an unbelievable story which is contrary to the law. Applicant also submits that when sufficient vacancy is available how the respondent authority has not given appointment to the applicant having same status of the last appointed candidate, so considering that fact the Hon'ble Tribunal should have allowed this Original Application by giving a direction upon the respondent authority to give an appointment to the applicant for his demanded post i.e. Group-D staff...".

Since the statements made in paragraph 5 of the reply have not been dealt with at all in paragraph 7 of the rejoinder, no order is passed in favour of the applicant. Hence, the application is disposed of. No order as to cost.

(SAYEED AHMED BABA) MEMBER(A) (SOUMITRA PAL) CHAIRMAN.

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