

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Mr. Sayeed Ahmed Baba, Member (Admn.)

Case No. –OA 287 of 2010

*Bibhas Chandra Naskar & Ors. - VERSUS - THE STATE OF WEST BENGAL & ORS.*

Serial No. For the Applicants : Mr. C. Panda,  
and Mr. B.L. Sahoo,  
Date of order Mr. S.P. Roy,  
14 Advocates.  
08.06.2022

For the State Respondent : Mr. B.P. Roy,  
Advocate.

The Original Application – OA 287 of 2010 was filed on 19<sup>th</sup> March, 2010 praying for certain reliefs, the relevant portion of which is as under :

*“i) To direct the respondents and/or their Agents and/or their subordinates to set aside/cancel/withdraw the impugned panel dated 05.02.2010 for the post of Group “D” Employees under Good & Supplies Department.*

*ii) To Direct the Respondents and/or their agents and/or their subordinates to prepare a fresh panel for the post of Group-“D” staff under Food & Supplies Department after cancelling the impugned panel dated 5.3.2010.*

*iii) To direct the Respondents and/or agents and/or their subordinates to give appointment to the applicants at the post of Group-“D” Employees under Food & Supplies Department, after preparing a fresh panel;”*

The matter was admitted. Reply and rejoinder were filed. The Single Bench of the Tribunal heard the matter and passed an order on 10<sup>th</sup> January, 2012. Aggrieved the original applicants preferred a writ petition being WPST 79 of 2012 before the High Court. The High Court by order dated 13<sup>th</sup> March, 2012 remanded the matter to the Tribunal for hearing it afresh in accordance with law. The Tribunal heard the matter and by judgment dated 20<sup>th</sup> June, 2012 dismissed the application. Aggrieved the applicants again preferred a writ petition before the High Court, being WPST 418 of 2012 In re : Bibhas Chandra Naskar & Ors.

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– Versus – State of West Bengal & Ors. The said application was disposed of on 10<sup>th</sup> June, 2016 holding, inter-alia, as under :

*“..... The Tribunal, in our opinion, failed to consider the fact that it was not an ordinary case of selection which was challenged by unsuccessful candidates. Though the Petitioners were unsuccessful, but their chance of selection was jeopardized by many of the candidates, who were close relatives of the members of the Selection Committee, and were selected. We also find from record that the Selection Committee had interviewed as many as 800 candidates in one day, which in our experienced opinion, is wholly improbable and unbelievable.*

*There is no material before us, except bald statements made in paragraphs ‘19’ and ‘20’ of the Opposition that two members of the said Selection Committee did not participate in the said process.*

*Merely saying that Biswanath Mondal and Bibek Ranjan Saha have been empanelled strictly on the basis of merit does not make the entire empanelment legally valid as admittedly it does not appear from any record placed by the Respondents before us that Chandidas Mondal and Smt. Anuradha Saha, being the members of the Selection Committee (who were close relatives of some of the candidates), had not participated in the selection process; rather on the other hand, the entire selection committee consisting of five members appeared to have participated in the interview process held from February, 2009 to March, 2009.*

*Apart from the fact that there had been nepotism and favouritism in the selection process, as noted by us, 800 candidates in a day possibly could not have been interviewed. Hence the selection process appears to be farce and eyewash.*

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*For all the reasons stated above, we set aside the order dated 20.06.2012 passed by the Tribunal and remand the matter back to the Tribunal for hearing it afresh. We also grant liberty to the Applicants/Petitioners to implead the successful candidates as party Respondents in the writ petition. The learned Counsel appearing for the Respondents is directed to furnish the names of the successful candidates to the learned Counsel for the Petitioners within a period of two weeks from today.*

*The Tribunal will consider as to whether the selection process was fair and proper or is liable to be quashed. The Tribunal will decide the matter within a period of six months from the date of submission of the certified copy of this order before it by either of the parties.*

*The writ petition is disposed of with no order as to costs.....”*

After the matter was remanded by the High Court by order dated 10<sup>th</sup> June, 2016 to the Tribunal, in compliance with the directions passed by the High Court, orders were issued from time to time to add successful candidates as party respondents. It appears from records that on 19<sup>th</sup> December, 2019, the Miscellaneous Application being MA-240 of 2019 was allowed by issuing direction for adding the successful candidates as party respondents and a copy of the amended Original Application was directed to be filed in the Registry by 10<sup>th</sup> January, 2020. Mr. B.L. Sahoo, learned advocate for the applicants submits that the same was filed in the Registry on 9<sup>th</sup> January, 2020. Thereafter, the matter came up for hearing on various dates. It appears from the order dated 7<sup>th</sup> December, 2020 that in view of the submission made by Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents at that relevant point of time, time to comply with the direction for serving notice upon the respondents was extended till 22<sup>nd</sup> March, 2021 and Respondent No. 1 was directed to file a report in a sealed cover regarding compliance of the order as indicated in the order dated 6<sup>th</sup> February, 2020 and the matter was directed to

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appear under the heading “For Orders” on 22<sup>nd</sup> March, 2021. We find that the application for addition of party was filed, being MA-240 of 2019, which was allowed on 19<sup>th</sup> December, 2019, by an order the relevant portion of which is as under :

*“Heard Mr. B.L. Sahoo for the applicants.*

*Mr. G.P. Banerjee, learned advocate for the State respondents who was appearing at that relevant point of time in his usual fairness does not oppose the prayer to add 650 successful candidates as party respondents.*

*In view of the submission made, the Miscellaneous Application for adding the 650 successful candidates as party respondents is allowed. Let 650 successful candidates be added as party respondents to the Original Application, being OA-287 of 2010 by 10<sup>th</sup> January, 2020.*

*Let a copy of the amended original application be filed in the Registry by 10<sup>th</sup> January, 2020.*

*Let the matter appear under the heading “To Be Mentioned” on 6<sup>th</sup> February, 2020.”*

As already noted, the amended original application was filed in the Registry on 9<sup>th</sup> January, 2020. Thereafter, pursuant to the order dated 6<sup>th</sup> January, 2020, a report of compliance of the order was filed in a sealed cover on 22<sup>nd</sup> March, 2021 by the Secretary to the Government of West Bengal, Food & Supplies Department which is reflected from the order dated 22<sup>nd</sup> March, 2021. In this regard, it would be relevant to quote the observations/findings of the Secretary to the Government of West Bengal, Food & Supplies Department which is as under :

*“1. In this case, the Hon’ble WBAT in his order dated 06.02.2020 has directed to notify each of the appointees/successful candidates/added private*

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*respondents individually that their appointments are under challenge in the instant proceedings and they have been added as party respondents, by 15<sup>th</sup> April, 2020.*

*2. 614 (six hundred fourteen) no. of incumbents, who have been appointed through the examination of Gr. D including Night Guard are working as on date under Food & Supplies Department.*

*3. Accordingly, this Department has communicated the order to 614 appointees/successful candidates (who have been appointed as Group-D through that examination and working as on date) vide no. 1037-FS/O/Sectt./CSS/7S-51/2010 Pt. dated 12.03.2020 and directed to take the notice of the above direction of the Hon'ble WBAT.*

*Enclo : 1037-FS/O/Sectt./CSS/7S-51/2010 Pt. dated 12.03.2020 along with the lists of 614 incumbents."*

We find despite notice, till date, none of the successful candidates / private respondents have come up to contest the proceedings. Since despite service of notice, none of the successful candidates have come up to contest the instant original application, being OA-287 of 2010, we proceed to deal with the matter. Perusing the judgment of the High Court dated 10<sup>th</sup> June, 2016 passed in WPST 418 of 2012, we find that the observations made and findings arrived at have neither been diluted in the judgment itself and as submitted by Mr. Sahoo, none of the successful candidates preferred appeal before the higher forum. Since the High Court has held that the "*selection process appears to be farce and eyewash*" and as the applicants herein, as it appears from the judgment, have secured numbers less than the cut off marks and as despite notice none of the successful candidates have appeared and contested the original application, the appointments of Group-D staff are set aside and quashed with immediate effect. Since it is evident from the judgment of the High Court that there has been "*nepotism and favouritism in the selection process*" and the "*selection process*

**ORDER SHEET**

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*appears to be farce and eyewash*”, the Secretary, Food & Supplies Department, Kolkata, the Respondent no. 3 is directed to lodge complaint against the members of the Selection Committee consisting of five members and others involved before the Police authorities and shall take all steps to bring the wrong doers to book and shall also take departmental action against them within eight weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal. The application is disposed of.

The Learned Registrar is directed to send a copy of this order to the Chief Secretary, Government of West Bengal forthwith.

**(SAYEED AHMED BABA)**  
**Member (A)**

**(SOUMITRA PAL)**  
**CHAIRMAN**

CSM/SS