

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman
The Hon'ble Sayeed Ahmed Baba, Member (A)

Case No. OA – 34 of 2018

Debashis Purkait - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>16</u> 27.07.2022	For the Applicant	: Mr. I. Nandi, Ms. M. Patra, Mr. S. Konar, Advocates
	For the Respondents	: Mr. S. Ghosh, Advocate

In the application, Debashis Purkait, the applicant has prayed for certain reliefs, the relevant portion of which is as under:

“(a) The respondents their men, agents, servants and/or subordinates be directed to appoint the Applicant in the post of Lower Division Clerk under the Agriculture Department (Regional Establishment) in pursuance of the order dated 7th June, 2016 and 8th August, 2016 passed by this Hon'ble Tribunal in O.A. 453 of 2015.”

Mr. I. Nandi, learned advocate for the applicant submits that in view of the judgement dated 7th June, 2016 passed in O.A. 453 of 2015 (Rabi Sankar Das & Others –Vs- State of West Bengal & Others) and the order passed on 8th August, 2016 in MA 126 of 2016 in the said matter as the applicant though not a party to the said proceedings, comes within the zone of consideration for appointment, the respondents may be directed to appoint the applicant to the post of Lower Division Clerk in the Agriculture Department Establishment. On query it is submitted that the applicant came to learn about the judgement dated 7th June,

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2016 after a considerable lapse of time as explained in paragraph 5 of the Original Application. Submission is there might have been some delay on the part of the erstwhile advocate on record in filing the application and the application was filed after the applicant had received the reply on 23rd October, 2017 under the Right to Information Act, 2005. Moreover, as the State respondents in its reply, particularly in paragraph 5 thereof, have stated that in the merit list the name of the applicant appears at Serial No. 420 in the General / General E.C. category and the last General category candidate appointed in the merit list was at Serial No. 391, appropriate order may be passed.

Mr. S. Ghosh, learned advocate appearing on behalf of the State respondents, submits that the judgement in O.A. 453 of 2015 was delivered on 7th June, 2016 and order on the M.A. 126 of 2016 in connection with O.A. 453 of 2015 was delivered on 8th August, 2016. The applicants, as evident from the verification in this original application have verified the said application on 19th January, 2018. It appears from the affidavit of service, affirmed on 11th June, 2018, that copies of the original application was served on the respondents on 1st June, 2018. According to the learned advocate for the State respondents, since the application is hit by section 21 of the Administrative Tribunal's Act, 1985, no order may be passed as the delay in filing the Original Application has not been explained in paragraph 5 of the Original Application. Further assuming, the application was filed pursuant to the reply on 23rd October, 2017 under the 2005 Act as the application is a fence sitter, no order may be passed.

In our view, since the recruitment process started with the issuance of advertisement and ended with the publication of the merit list when the selection process comes to an end, no order is passed on the application. Moreover as admittedly the name of the applicant appears against Serial No. 420 and

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appointments have been given up to Serial No. 391, in our view, there is no question of deprivation of the applicant. Assuming 15 posts are still lying vacant as submitted on behalf of the applicants since candidates placed above the applicant in the merit list have to be considered first, no order is passed on the application.

SAYEED AHMED BABA
MEMBER(A)

SOUMITRA PAL
CHAIRMAN

A.K.P.