

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA 404 of 2022

Biswajit Pratihar & Ors. -- VERSUS – The State of West Bengal & Ors.

Serial No. and For the Applicants : Mr. S. Chatterjee, Ld. Advocate.
Date of order

For the State respondent : Mr. G.P. Banerjee, Ld. Advocate.

09
10.05.2023

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 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for a direction to disclose the procedure adopted by the West Bengal Police Recruitment Board while preparing the panel of candidates. The matter relates to an examination to recruit to the post of Agragami (WBNVF) in Civil Defence Organisation. The examination was conducted during 2021-2022. After the completion of the recruitment process, the Recruitment Board displayed a list of 612 provisionally selected candidates as well as a list of 485 unsuccessful candidates. The 30 (thirty) applicants of this application belong to the list of unsuccessful candidates. The primary grievance as expressed in the application and submitted by the legal counsel, Mr. M.N. Roy is that, there was favouritism by the respondents towards the successful candidates. Moreover, answers to three questions are reported, wrong. Submission of the Learned counsel is that in view of the above grounds, the Recruitment Board be directed to disclose why the successful candidates were recommended.

Mr. Banerjee, appearing on behalf of the state, at the very outset questions the validity of the relief sought for in the application in which they have sought for a direction to the Recruitment Board to “*disclose the procedure adopted*”. Mr. Banerjee submits that the Tribunal has no such jurisdiction to direct the Recruitment Board in this regard.

Further, the application is not admissible on the ground that these applicants, as candidates and complying with the rules and regulations of the recruitment process duly participated in all the stages without any demur or objection. Having become unsuccessful in the end, questioning the very

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method of the recruitment now is questionable and inadmissible.

With regard to the allegation of wrong answers against the three questions, submission of Mr. Banerjee is that the advertisement notice had clearly expressed to the candidates “*all candidates are advised to compare the answer key with the question paper carefully and bring apparent incongruities, if any, to the notice of the West Bengal Police Recruitment Board by sending E-mail within 07 (seven) days from 07.01.2022.*”

It is submitted that none of the applicants, although questioning correctness of the answers, intimated the Recruitment Board about the anomalies, if they so felt. Therefore, without exhausting the remedy available to them before the Recruitment Board, the applicants filed this application before this Tribunal.

Concluding his arguments, Mr. Banerjee submits that though the applicants have used the expression of “*favouritism*” towards the successful candidates, however, no specific incidence or evidence have been given or referred in this application. Therefore, the allegation of favouritism against the Recruitment Board is not only baseless but without any proof.

Mr. Banerjee relies on a judgement passed by this Tribunal earlier in State of West Bengal Vs. Akash Bhunia’s case (OA-430 of 2020).

During the last hearing, the learned counsel for the applicants had submitted that as stipulated in the advertisement, the applicants had written to the Board informing the correctness of the key answers given by the Board against question nos. 16, 20 and 42. During the hearing today, a copy of letter addressed by one of the applicants, Dipak Mahato, addressed to the Chairman, West Bengal Police Recruitment Board has been filed, in which it appears that the applicant had doubted the correctness of the key answers given by the Board against two questions (question nos. 16 and 20).

In response to this, Mr. Banerjee has filed a reply against the supplementary affidavit earlier filed by the applicants. In this reply, the learned counsel for the respondent has responded to the “**correct**” answer as

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suggested by the applicants. Submission is that correctness or incorrectness of any answer to a question is the complete domain of experts. The Board itself is not an expert to decide whether the answer to a question is correct or not. It relies on the services of domain experts who will determine whether an answer to a question correct or not. In support of this submission, Mr. Banerjee files a copy of correspondence addressed by the Member Secretary, West Bengal Police Recruitment Board addressed to one such domain expert. In this set of papers, the Board has requested the expert to choose the correct/best answer against the given set of questions. In reply, the same expert has communicated the correct/best answer against each question.

Having submitted that correctness of an answer to a question is the domain of experts and not the Board, Mr. Banerjee relies at para 9 of Judgment AIR 1990 SC 434 (Dalpat Abasaheb Solunke v. Dr. B.S. Mahajan). The relevant portion of judgment in the case of Dalpat Abasaheb Solunke v. Dr. B.S. Mahajan (supra) is as under :

“..... Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds. The Committee consisted of experts and it selected the candidates after going through all the relevant materials before it.”

Reliance is also made in judgment passed by this Tribunal in “Akash Bhunia and Others v. The State of West Bengal and Others” in OA 430 of 2020, in which the Tribunal passed the judgment on 28.01.2022.

After hearing the submissions of the learned counsels for all the parties and perusing the records in this application, the Tribunal has observed the following :

- 1) Although the applicants have complained of favouritism by the Board towards some of the successful candidates, however, no specific example or instance has been quoted to prove their point.
- 2) It is a fact that though the applicants fully participated in the

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recruitment process, however, once they were not successful, they filed this application in the Tribunal alleging unfair practice by the Board.

It is clear that the specific issue raised by the applicants' side is towards "**incorrect**" key answers given by the Board against question nos. 16, 20 and 42. For instance, according to the Board's answer in question no. 16, the closest planet to the Earth is Mercury. However, the applicants believed that Venus is the closest planet to the Earth. In question no. 20, the Board has answered that in 2021 India's FIFA ranking is 106, whereas, the applicants believed it should be 104. In question no. 42, the question was, who was the first Governor General of India. According to the Board, it was Waren Hastings. However, the applicants believed, it was William Bentinck.

In my opinion, the Tribunal is neither a knowledge expert nor has the determination to interfere with the correctness of any question overruling the views of an expert. In several judgements of the Apex Court, it has been made clear that no Court or Tribunal should interfere in the field which is an exclusive domain of expert bodies. Since correctness of the key answer given by the Board was the primary ground for challenging this recruitment process in this Tribunal, it is the opinion of the Tribunal, as stated above, that this is an area which is the exclusive domain of only the experts. Since the Board had engaged the experts and their opinion was in record, this Tribunal do not want to interfere relating to the correctness of any key answers against questions. Therefore, I do not find any illegality in the recruitment process, therefore, this application is **dismissed** without any orders.

Interim order given on 20.09.2022 is, thus, vacated.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)