

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 437 of 2019

Sanjib Kumar Haldar -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. M.N. Roy,
Mr. G. Halder,
Ld. Advocates.

18
21.02.2024

For the State Respondent : Mrs. S. Agarwal,
Ld. Advocate.

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.

This application has been filed praying for setting aside the promotional order in Memo. No. 3408 dated 15.02.2019. The final gradation list of the Draughtsman which was published on 12.09.2017 in which out of 37 names, the name of the applicant appears at serial no. 37, as a scheduled caste candidate. Based on this final gradation list, the promotion order for the post of Head Draughtsman was issued on 14.02.2019. Although this promotion order was in conformity with the 50 point roster so far the other three scheduled caste candidates were concerned but such Rule was violated when it came to this applicant's promotion. For instance, the following scheduled caste candidates were given promotion as per such rule. The contention of the applicant is that such promotion order of Head Draughtsman was issued in violation of the rules relating to reserved candidates. From the submissions and the records, it appears that the applicant belonging to the scheduled caste category was at serial no. 37 in the combined gradation list. As submitted, according to the 50 point roster, the vacancies at 15th, 18th, 21st, 24th and 28th were to be filled up only by the reserved candidates. The 24th vacancy was reserved for scheduled tribe candidate. Since no scheduled tribe candidate was available, as per rules, this 24th vacancy was supposed to be filled up by a candidate belonging to any other reserved category. In this case, the applicant was the sole candidate to fill up this vacancy. However, this was rather filled up by a candidate belonging to the unreserved category.

ORDER SHEET

Sanjib Kumar Haldar

Form No.

Case No. **OA-437 of 2019**

Vs.

The State of West Bengal & Ors.

Sl. No.	Name	Sl. No. in Gradation List	Sl. No. of promotion order	Against 50 point roster
01.	Subhas Mondal (SC)	15 th	1	15 th
02.	Anukul Chandra Mondal (SC)	16 th	4	18 th
03.	Pranab Roy (SC)	20 th	7	21 st

As per the 50 point roster, out of the five vacancies reserved for the candidates belonging to reserved category, the above-named three candidates were promoted. However, the remaining two reserved vacancies at Sl. 24 & 28th were filled up by candidates belonging to unreserved categories. In this promotion order, appearing at serial no. 10 – one Bhanu Bhattacharya belonging to the unreserved category filled up the 24th reserved vacancy. Likewise, one Sanat Kumar Das belonging to the unreserved category filled up the 28th reserved category vacancy. Such floating of the rule deprived the applicant belonging to the scheduled caste category to fill up the 24th or even the 28th vacancies reserved for his category.

Let the matter appear under the heading **“Further Hearing”** on **05.03.2024 at 10:30 a.m. as a Specially Fixed Matter.**

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS