

ORDER SHEET
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 474 of 2020

Suman Chattopadhyay -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant

: Mr. S.K. Mitra,
Learned Advocate

25
15.05.2025

For the State Respondents

: Mr. G.P. Banerjee,
Learned 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.

By filing this application, the applicant has prayed for setting aside the entire selection process initiated by advertisement no. R/Lib.-20/72(1)/2019 dated 12.09.2019. The prayers also include for setting aside the appointment of the private respondents no. (vi) to (xxv).

From the facts of the case as narrated in this application and from the submissions of the learned counsels, it is understood that the applicant had participated in the selection process for the post of a Librarian under the Department of Health & Family Welfare in the year 2019. The advertisement no. R/Lib.-20/72(1)/2019 declared a total of 20 posts of Librarian to be filled up from eligible candidates. The contention of the applicant is that he belongs to Economically Weaker Section (in short, "EWS") of the Society and such Certificate has been issued to him by the competent authorities. The applicant relied on a Notification No. 325-PAR dated 09.07.2019 which clearly earmarked 10% reservation in direct recruitment in civil post and services in the Government of West Bengal for candidates belonging to EWSs.

Submission of Mr. Mitra is that though this Notification reserving 10% seats was published prior to the publication of the advertisement for the post of Librarian, but the respondent authorities did not consider such reservation for the applicant. Hence, this entire selection process disregarding 10% reservation of EWS as stipulated in Notification No. 325-PAR dated 09.07.2019 was in violation and, therefore, the entire selection process should be scrapped.

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Appearing on behalf of the State respondents, Mr. Banerjee, learned counsel had submitted that, though the Notification No. 325-PAR dated 09.07.2019 was published for keeping 10% reservation for EWS, but it was not implemented due to various administrative reasons. The primary reason stated by Mr. Banerjee is that after the publication of this Notification, a number of writ petitions were filed by others before the Hon'ble Supreme Court and since the matter was being contested in the Supreme Court, the Government was not ready at that point of time to implement this reservation policy, both in letter and spirit. Mr. Banerjee also drew attention to the final paragraph of the Notification No. 325-PAR dated 09.07.2019, which required the Department of Health & Family Welfare to "bring out necessary guidelines in this regard". Submission is that such guidelines which would have enabled the Department to implement the Notification for 10% reservation of EWS was not published at that relevant point of time. Mr. Banerjee was also emphatic in submitting that the advertisement by which the post of Librarian was published did not contain any provision for 10% reservation of EWS. Therefore, the applicant, though participated without any protest in the selection process cannot now agitate for their 10% reservation as EWS candidates. Attention was also drawn to an order of this Tribunal in OA 760 of 2022 by Mr. Banerjee as a similar case. After examination of the order in this referred application, it is clear that the Tribunal had not agreed to pass any direction to the respondent authorities to reserve 10% seats for EWS candidates in the selection process for those who had appeared under the same Department of Health & Family Welfare for the post of Staff Nurse (GNM), Grade-II. This selection process for the post of Staff Nurse (GNM), Grade-II was held in the year 2021. The Tribunal in its order had noted that at the time of the selection process in 2021 such Notification binding the Department of Health & Family Welfare to reserve 10% seats for EWS candidates was not in force. Attention was also been drawn to a Memorandum No. 959-BCW dated 18.05.2023. After a close examination of this Memorandum, it is clear to this Tribunal that the Backward Classes Welfare Department had modified the earlier Memorandum No. 325-PAR dated 09.07.2019. By this supplementary

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notification, it is clear that 10% reservation in the direct recruitment in civil post and services in all the Departments/Bodies/Corporations/Local Bodies/Appointment to Education Institutions was to be kept reserved for EWS candidates. The Notification also guides the Department of how the 100 point Roster of vacancies in direct recruitment will be maintained. From the wordings in this Notification, it is clear that from the date of this Notification on 18.05.2023, it has become mandatory for all the Government Bodies to keep 10% reservation for EWS candidates. Further, the true spirit of the earlier Notification No. 325-PAR dated 09.07.2019 seems to have been made a reality and implemented for the EWS candidates to benefit.

After hearing the submissions of the learned counsels and perusal the records in this application, the Tribunal comes to the finding that at the material point of time when the applicant appeared for the examination such 10% reservation was not in force for candidates belonging to Economically Weaker Sections (EWSs). Later by a Notification No. 959-BCW/MR-52/2019 dated 18.05.2023, the State Government implemented 10% reservation in direct recruitment in civil posts and services in its departments / Boards / Corporations / Local Bodies in the Government of West Bengal and also in admission to Educational Institutions in the State. Therefore, from the above Notification, it is clear that such reservation came into force only from 18.05.2023. It is also clear that the reservation for EWS was not available at the time the applicant participated in the recruitment process during 2021. Therefore, the Tribunal does not find any merit in the prayer of this application, which is for a direction to give appointment to the applicant for the post of Librarian under EWS category. This application is disposed of without passing any orders.

A.K.P.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)