

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 579 of 2022.

SAMAR RAY AND ANR - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

07
02.04.2024

For the Applicants : Mr. G. Halder,
Learned Advocate.

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.

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

The applicants have prayed for setting aside the impugned memo dated 26.7.2022 by which his representation was not considered. The two applicants posted as leader in the Fire and Emergency Department and had participated in the process for promotion to the post of Sub Officer. Mr. Halder, learned counsel for the applicants submit that despite performing well in the written examination, the applicants were awarded only 29 and 30 marks respectively out of 50 and thus not qualified to participate in the next round of the selection process.

Appearing on behalf of the respondent authority, Mr. Banerjee, learned counsel submits that mere presumption of the applicants is not sufficient reason to agitate. The selection process was conducted and evaluated by a team of experts and the respondent authorities based their decision of their advice.

Having heard the submission of the learned counsels, the Tribunal finds that being left out in the selection process, the applicants have presumed that the awarding of such low marks was not fair to them. The applicants have also argued

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that being post graduates, no consideration was shown for such qualification.

In the opinion of this Tribunal, such presumption of being partisan by the respondents is obvious and cannot be blamed on any candidate who do not make it to the final merit list. However, the law is well settled that unless any malafide intention is proved, the awarding of marks by the experts cannot be interfered with by the Tribunal. In this matter, the Tribunal cannot question why these two applicants were given only 29 and 30 out of total 50. These are exclusively the domain of the experts and unless any malafide is proved, the Tribunal cannot interfere and direct the respondents to review their marks. Hence, not finding any merit in this application, it is disposed of without passing any order.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Sk.