

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. - OA 602 OF 2021

VINOD KUMAR - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

16
12.03.2025

For the Applicant : Mr. Vinod Kumar
(Appears in person)

For the State Respondents : Mr. Manujendra Narayan Roy
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 and the applicant appearing in person for the contesting parties, the case is taken up for consideration sitting singly.

Mr. Vinod Kumar, appearing in person refers to the concluding paragraph of the reasoned order passed by the Joint Commissioner of Police (Hqrs.) Kolkata on 14.01.2021. The relevant para is as under:

“In view of the facts and discussions stated above, I am of the considered view that, the applicant has been rightly placed at rank no. 171 in the final Gradation List published on 05.02.2013 which has been done in terms of the PTC Manual, 1936. His prayer, as made by him vide representations dated 17.01.2018 and 13.03.2018, is thus, considered and regretted.”

The Rule, 63 of Bengal Police Training College Manual, 1936 obtained by the applicant's father through the RTI Act on 07.05.2019 is referred to. The relevant rule 63 is as under:

“2. As per Rule 63 of Bengal Police Training College Manual, 1936- “The relative seniority of the cadets appointed as probationary

Sub-Inspectors will be ordinarily in accordance with the marks obtained in the final examination”.

Submission of Mr.Kumar is that the respondent authorities were incorrect in referring to Rule 63 as the reason for reduction of his rank from 3 to 171. Submission is that, as evident from Rule 63, seniority of a cadet as a probationary Sub-Inspector is to be based on aggregate marks obtained by him/ her in the final examination. Mr.Kumar refers to copy of Merit List of Cadet SI's KP of Batch No. 57/2009-10. Appearing at serial No. 3, name of the applicant - Vinod Kumar is seen, having secured 1221 marks. As clear from the above cited paragraph, Mr.Kumar submits that, having secured 1221 marks and placed 3rd in the overall merit list, the authorities cannot dilute and downgrade him to 171 position. Continuing his submission, Mr.Kumar placed a copy of Memo. 1882-F dated 11.03.1981. This is a Notification published by the Finance Department titled “West Bengal Services (Determination of Seniority) Rules, 1981”. Emphasis is given by him at Rule 4, which is as under:

“4. Determination of seniority of direct recruits- The relative seniority of all persons appointed directly through competitive examination or interview or after training or otherwise shall be determined by the order of merit in which they are selected for such appointment on the recommendation of the Commission or selecting authority, persons appointed on the result of an earlier selection being senior to those appointed on the result of a subsequent selection.”

Submission is that as clear from this Rule, his seniority should have been maintained on the basis of the merit in the examination in which he had been placed at serial No. 3.

ORDER SHEET

Form No.

VINOD KUMAR

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Mr.M.N.Roy, learned counsel makes the following submissions:

The applicant had approached this Tribunal earlier in OA-274 of 2020 in which similar prayers were heard by the Tribunal and a direction was given to the respondent authorities to consider the representation filed by the applicant by order dated 18.11.2020. In terms of such a direction of the Tribunal, the respondent authority, the Joint Commissioner of Police (Hqrs.) passed the reasoned order dated 14.01.2021. Submission of Mr.Roy is that since the prayer in this application filed earlier as well as the prayer in this application are similar and his main grievance of being downgraded from serial No. 3 to 171 are same, therefore, this application is hit by constructive res judicata. Secondly, the applicant having accepted earlier the Police Training College Manual, 1936, now he cannot take shelter under West Bengal Services (Determination of Seniority) Rules, 1981. Mr.Roy, further submits that as per Rule 57C of PTC Manual, a candidate is required to obtain at least 50% in each subject and 60 % of the total marks in each Group- A and B to be fully successful in the said examination. In this case, the applicant could not clear his swimming examination, therefore, his original seniority at serial No. 3 was not considered and such seniority was not retained. Having passed the swimming test on second chance, he was relegated to position 177 in the Gradation List.

Let further submissions be heard on 25th June, 2025 and the matter appear under the heading 'Hearing'.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

BLR