

ORDER SHEET

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 607 OF 2021

KAZI SALAHUDDIN - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

For the Applicant : Ms. S.Saha
Advocate

09
18.06.2024

For the State respondents : None

For the Public Service : Mr.Sourav Bhattacharjee
Commission, West Bengal 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.

The prayer in this application is for a direction to the respondent authorities to give appointment in the post of Panchayat Accounts and Audit Officer. Submission of Ms.S.Saha, learned counsel for the applicant is that although the applicant had appeared in the interview, but was not considered as a successful candidate on the ground that the applicant did not qualify as per the cut off marks.

From the submissions of the learned counsels and the records in this application, it is understood that the name of the applicant did not feature in the final merit list for the post of Panchayat Accounts and Audit Officer. The Public Service Commission had conducted the selection process for the recruitment to this post in the year 2016-2017. After completion of the process, the Commission published the final merit list on 10.01.2018. The contention of the applicant is that the cut of marks fixed by the Commission was not only kept in secrecy, but was

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also arbitrary and whimsical. The applicant feels that the discretion of the Commission for fixing such qualifying marks is bad in law. Attention is drawn to the RTI reply given by the Commission to the applicant on 01.10.2019. From this reply, it is observed that the applicant had scored a total of 120.5 in written and 14 in interview, thus, scored a total of 134.5 marks. In the same examination, the last successful candidate under the General category to which the applicant belong, had scored 140 in aggregate. Thus, 140 marks was taken as the cut of marks for candidates under the General category. The RTI also informs the applicant that it does not maintain any second / waiting list and also the panel of merit list published in the year 2018 is no more a valid panel today. In the representation to the Commission dated 27.01.2021, the applicant has requested the Commission if he can be accommodated in one of the 18 vacant posts for the General candidates.

Having heard the submissions of the learned counsels and on examination of the records in this application, the Tribunal feels that no tenable ground has been presented and established by the applicant. Mere allegation of arbitrariness and whims on part of the Commission in fixing the cut of marks is not a valid ground. Further, the role of the Commission in fixing such qualifying marks cannot be turned as bad in law. It is abundantly clear that the applicant could not score above or even at par with the last successful candidate under the General category to which the applicant belongs. It is natural for any unsuccessful candidate being eliminated at the last round of selection to feel aggrieved. The Tribunal does not find that the Commission was hiding anything from the applicant. The reply under the RTI Act has supplied him all the relevant information as asked for by the applicant. The Tribunal also does not find any allegation of prejudice and injustice

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shown to the applicant; overall it was a fair selection process in which the applicant participated and felt aggrieved later when his name did not feature in the final merit list. Having participated, but not being successful, the applicant now cannot turn around and complain about the selection process. Having found no merit in this application, it is disposed of without passing any orders.

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

BLR