

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Officiating Chairperson and Member (J).

Case No. –OA 622 of 2022

Buddhadev Naskar. - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicant	: Mr. A. Hati, Advocate.
<u>02</u> 11.11.2022.	For the State Respondents	: None.
	For the Respondent No. 05	: Mr. M. N. Roy, Advocate.
	For the proposed Added Respondent	: Mr. A. Maiti, Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

The counsel for the respondent no. 05 has submitted that the Backward Classes Welfare Department, Government of West Bengal is no way related to the prayer of instant application as this is a case of filling up a post in Agriculture Department, Government of West Bengal. Therefore, he has submitted the respondent no. 05 may be expunged from the array of respondents.

Prayer is allowed.

The applicant is directed to delete the name of the respondent no. 05 from the array of respondents.

None for the State respondents.

It is noted that in the earlier occasion, the applicant came before this Court in OA-223 of 2021, which was dismissed with following observation:-

“I have heard both the parties and

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perused the records. It is noted that the applicant has basically prayed for an interim order with a prayer to direct the respondent authority not to fill up another post of Grade-I in Agronomy Discipline (Research) by General Candidate, which will be vacant very soon that means the post is still occupied by the present incumbent and unless and until the post would be vacant or any violation of Recruitment Rules would be found, there is no question of granting interim order on future happening. Therefore, the instant application is premature one as at present the cause of action yet to be occurred. Therefore, in my considered opinion, at present the applicant has no locus standi to ask for any interim protection or any other order in this regard. Accordingly, both the O.A. and M.A. are dismissed being premature.”

However, some typographical mistake was rectified with regard to line 11th of the page 2 vide order dated 20.09.2022.

As per the applicant presently one vacancy has been created on 14.09.2022 by transferring Probir Kumar Saha, Chief Agronomist and Ex-Officio Joint Director of Agriculture, FCRS, Burdwan to the post of Joint Director of Agriculture (Research), West Bengal Higher

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Agriculture Service (Research), West Bengal. Therefore, as the said post is vacant, the applicant is apprehending that it may be filled up by another general candidate though the said post is made for scheduled caste candidate. Therefore, the applicant has approached this Tribunal with a prayer to direct the respondents to appoint the applicant to the post of West Bengal Higher Agriculture Service (Research), Grade-I.

Heard the counsel for the applicant. It is noted that the applicant was directed to satisfy the Court on the point of locus standi by the order dated 23.09.2022 as in the earlier occasion his case was dismissed being premature as no cause of action had occurred with the observation that for apprehension of future happening no case can be entertained. In the present case also as per the applicant, the said post is still vacant and till date, nobody has been appointed.

Therefore, unless and until the said post would be filled up by violating any rules no cause of action would arise. It is further noted that on the self-same cause of action, the applicant has again come before the Tribunal. Therefore, in my considered opinion at present, the applicant has no locus standi and/or no cause of action arose till date as the said post is still vacant.

Accordingly, the O.A. is dismissed with above observation.

URMITA DATTA (SEN)
Officiating Chairperson and Member (J)

S.M.