

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- 738 of 2023

Parna Datta & Ors. - Vs - The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Ms. Gopa Biswas,
Learned Advocate.

04
08.08.2024

For the State Respondents : Mr. S.N. Ray,
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.

An error has been found in the 3rd paragraph of the order No. 2 dated 05.03.2024. In the 3rd line, the correct wording should be “*it appears from the application that these applicants were not successful in the selection process for the post of GNM (Female)*”. Let the above corrected sentence replaced the earlier sentence recorded in the above order.

The prayer in this application is for a direction to the respondent authorities to fill up the vacant post of 83 GNM (Female) from the panel of unsuccessful candidates. It appears from the application that these applications were not successful in the selection process for the post of G.N.M (Female) in 2022. However, they have come to learn that a total of 83 posts reserved for Physically Handicapped candidates are vacant due to non availability of such candidates. Hence, the prayer is for letting these unsuccessful candidates fill up these vacant posts after conversion into UR category.

Attention is drawn to page 21 of this application which appears to be part of the advertisement earlier published by the Board for recruitment of Staff Nurse Grade-II. In the Note (i) of the advertisement, the following words are inserted “*the vacancy/vacancies*”

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reserved for Physically Handicapped candidates will be treated as UR candidates in case of non availability of qualified". From this page, reference is made to page 92 of the application which is a notice issued by the Board on 21.07.2023. In the tabular form, it has been shown that under the PWD category out of 89 notified vacancies; only six names are available from the panel. Ms. Biswas submits that as evident from this information, there are still 84 (eight four) vacancies under the PWD category which can be converted and filled up by candidates from the UR category. Submission is that 11 (eleven) of the applicants in the application belonging to the UR category and having sufficient marks are eligible to fill up these vacancies.

Responding to the points argued by Ms. Biswas, Mr. Ray, learned counsel draws attention to page 6 of the application and argues that the applicants themselves are not aware of how much marks they have obtained. Mr. Ray has submitted that the validity of this panel will expire on 31.07.2024 as mentioned in the notice No. 1285 dated 31.07.2023 appearing at page 95.

After hearing the submissions and on careful examination of the relevant documents, it is clear to the Tribunal that the applicants, being unsuccessful candidates belong to the UR category, but not knowing their individual aggregate marks, they are not in a strong position to claim such vacant PWD seats. Had they applied for their marks under the RTI Act, may be, they would have been in a better position to litigate. In the meantime, as notified in Notice-1285, validity of such panel has already expired. The Tribunal aware of the Board's administrative responsibility and its discretionary powers, leaves to it to take the best decision so far filling up these vacant PWD seats are concerned. While deciding how to fill up these posts, either through a

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panel or through a fresh process of recruitment, such decision is best left to the administrative decision makers. This Tribunal has neither the mandate nor any inclination to interfere in such matters. So far the applicants' case is related, they being unsuccessful in the Selection process, unaware of their aggregate marks, and claiming as UR candidates the vacant and reserved for PWD candidate's seats have not satisfied the Tribunal of their prayer of having any merit. In short, as unsuccessful candidates, the applicants' have no right to claim any seat left vacant due to non availability by other suitable candidates.

Thus, finding this application, devoid of any merit is disposed of without any directions.

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

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