

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**  
**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

**Case No. –OA-886 of 2019**

**Jahangir Ali and Others. -- VERSUS – The State of West Bengal & Others.**

1Serial No.  
and  
Date of order  
22  
07.08.2025

For the Applicants : Mrs. S. Mitra,  
Learned counsel.

For the State Respondents : Mr. G. P. Banerjee,  
Learned counsel.

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 23<sup>rd</sup> 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 applicants have prayed for a direction to the respondent authorities not to give effect or proceed with the recruitment to the post of Constables in West Bengal Police - 2018. The applicant nos. 1 to 11 are working as Civic Volunteers in West Bengal Police.

The applicant no. 12, a Home Guard had withdrawn himself and prayed for expunging his name.

The applicants had participated in the selection process for the post of Constable conducted by the West Bengal Police Recruitment Board, hereafter recorded as the Board during 2018. Submission of Mr. Basu, the learned counsel for the applicants was that, though the advertisement published by the Board clearly made 10% reservation for Civic volunteers but the final merit list published was not according to this advertisement.

In terms of a direction of this Tribunal, Mr. Banerjee, learned counsel had filed a copy of category-wise merit list of provisionally selected candidates for recruitment to the post of Constables in West Bengal Police, 2018. After examination of these records, the Tribunal finds that 10% of reservation for the Civic Volunteers would be 570 seats given the total number of vacancies declared in the same advertisement for all the categories being 5702. In an R.T.I. reply, the Board replied to one of the candidates, Kalimuddin Sk. that “a total of 146 Civic Volunteers candidates in all categories were shortlisted for interview and 97

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candidates were provisionally selected”. From this, it appears that only 97 candidates under the 10% reservation for Civic Volunteers were recommended. Similarly, in the reply filed by the State appearing at page 5, it is stated that a total of 97 Civic Volunteers were recommended for this post.

Mr. Basu, learned counsel had been arguing that by depriving the applicants the opportunity for their names to be recommended for the post of Constable, the Board violated, not only the provisions of the Recruitment Rules but also ignored the advertisement. His contention was that both the Recruitment Rules and the Advertisement had clearly spelt out that 10% vacancies will be reserved for the candidates belonging to Civic Volunteers, having minimum three years of experience. In accordance with such provisions, a total of 570 seats were to be kept reserved for candidates belonging to Civic Volunteers but the Board recommended names of only 97 such candidates and the remaining vacancies were allowed to be filled up by candidates belonging to other categories.

Mr. G. P. Banerjee, learned counsel appearing on behalf of the respondents’ side had submitted that, though the applicants participated in the recruitment process, but being unsuccessful, now finds some invalid grounds to challenge the recruitment process. He also laid emphasise in his argument that the Board did not violate any provisions, either the Recruitment Rule or the Advertisement. The candidates who have been recommended were strictly in terms of the Recruitment Rules and the Advertisement.

After proper examination of the documents in this application and having heard the submissions of the learned counsels, the Tribunal observes the following:-

- As per Clause 5 and 9 of the Recruitment Rules published vide Notification No. 5746-PL/PB/14M-05/16 dated 01.12.2017 of Home & Hill Affairs Department, Government of West Bengal, the Board is the authority for fixation of qualifying marks.
- Similarly, Clause 11 states that the final merit list of provisionally selected candidates shall be prepared on the basis of the total marks obtained by the candidates in the Written Test and the Interview.

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- The “Information to Applicants” published in the advertisement was available on the official website and all these information were known to the candidates including the applicants prior to the submission of their applications.
- The Board decided the final cut-off marks for UR, SC and OBC - A category were 47.75, 42.83 and 41 respectively.
- The below table shows the marks obtained by the 11(Eleven) applicants:-

Sl. No. as per OA.	Application Serial No.	Name of the Candidate	Social Category	Sub – Category	The marks obtained in Final Written Examination	The marks obtained in Interview	Total Marks	Final cut-off marks	Remarks
1.	70406836	Jahangir Ali	Unreserved	Civic Volunteers	34	8.83	42.83	47.75	Not Selected
2.	70105607	Kaushik Chakraborty	Unreserved	Civic Volunteers	35.5	12	47.5	47.75	Not Selected
3.	80003187	Amit Kumar Pradhan	Unreserved	Civic Volunteers	33	11.67	44.67	47.75	Not Selected
4.	70237158	Binod Kumar Manna	Unreserved	Civic Volunteers	36.25	10.17	46.42	47.75	Not Selected
5.	70249701	Subhendu Jana	Unreserved	Civic Volunteers	35.25	11.67	46.92	47.75	Not Selected
6.	70113631	Rajesh Gayen	Unreserved	Civic Volunteers	33.25	12.33	45.58	47.75	Not Selected
7.	70148459	Debabrata Nayak	Unreserved	Civic Volunteers	34.25	11.67	45.92	47.75	Not Selected
8.	70152695	Rinku Samanta	Unreserved	Civic Volunteers	38.5	8.67	47.17	47.75	Not Selected
10.	70426069	Rajesh Bouri	SC	Civic Volunteers	32	8	40	42.83	Not Selected

- From the above table, it is clear that none of the present applicants secured sufficient marks, matching the cut-off level in their respective categories to qualify and their names to be recommended.
- It is the prerogative of the recruitment Board to decide as to what the cut-off marks should be and in any event, the cut-off marks cannot be dependent on the vacancies available (reference case W.P.S.T. No. 173 of 2016 Dipasish Ojha – Vs.-The State of West Bengal & Others).
- It is clearly stated in MODEL 100-Point Roster of Vacancies that “In case of non-availability of a suitable Exempted Category candidate belonging to SC, ST or OBC Category –A and Category –B for any of such reserved point, the said vacancy shall be filled up by a non-Exempted Category candidate belonging to SC,ST or OBC Category –A and Category –B as the case may be” vide para 8 of Notification No. 50-Emp./1M-25/98 dated, Kolkata, the 1<sup>st</sup> March, 2011 of Labour Department, Government of West Bengal. So, the Horizontal reservation cannot be carried forward.

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- It is relevant to mention herein that 10% reservation for Civic Volunteers is horizontal in nature and were kept reserved for the candidates belonging to Civic Volunteers different social categories as can be seen from the below table :

Category	Unreserved	OBC-A	OBC-B	SC	ST	Total
Civic Volunteers	285	57	57	114	57	570

- However, it is equally important to note that although 570 seats were reserved for them but only 97 candidates could serve the cut-off marks fixed under their respective categories. Their details with category-wise break up is observed as below :

Category	Unreserved	OBC-A	OBC-B	SC	ST	Total
Civic Volunteers	53	9	3	29	3	97

- The remaining vacancies  $(570 - 97) = 473$  under Civic Volunteers were recommended as per Clause 8 of MODEL 100-Point Roster of Vacancies vide Notification No. 50-Emp./1M-25/98 dated, the 1<sup>st</sup> March, 2011 of Labour Department.

- In a similar nature of litigation, the Hon'ble High Court, Calcutta passed an order on 05.12.2016 in W.P.S.T. No. 173 of 2016 (Dipasish Ojha –Vs.- The State of West Bengal & Others) to the effect that *“From the advertisement issued it is apparent that a candidate would have to qualify in the Physical Measurement Test (PMT), the Physical Efficiency Test (PET), the written examination of 90 marks and if the candidate was found suitable, he would be invited for the interview. However, the qualifying marks for the written examination to appear for the interview were to be fixed by the Recruitment Board. This was made known in the advertisement itself. Therefore, the submission of the learned Counsel for the Petitioner that the petitioner had no knowledge that cut-off marks would be fixed to avail an opportunity to participate in the interview is not acceptable. His submission that the cut-off marks ought to have been fixed considering the number of vacancies and since nobody was selected for the 114 posts in the Unreserved*

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*Male Exempted Category, the cut-off marks ought to have been lowered, is also untenable. It is the prerogative of the recruitment board to decide as to what the cut-off marks should be and in any event, the cut-off marks cannot be dependent on the vacancies available. The writ petition is, thus, dismissed with no order as to costs”.*

- Therefore, the Tribunal is of the view that unsuccessful candidates have no vested right to claim appointment to any post. It is also well-settled that candidates who had taken part in the selection process knowing fully well the Rules of the recruitment process were not entitled to question the same at a later stage. It is their erroneous assumption that the 10% reservation for them would mean a lower cut-off mark. It was very well understood from the Recruitment Rules and the Advertisement that there would not be any separate cut-off marks for the candidates belonging to the Civic Volunteers. From a plain reading of these provisions, it was clear that, although one may participate from the Civic Volunteer category but they were required to qualify the cut-off marks fixed for their respective social categories. No concession in the cut-off marks was made for their category. It is also another Principle of Law and well-settled that it is the prerogative of the Recruiting Board and the Appointing Authority to decide what would be the qualifying marks required by a candidate to qualify for being recommended and appointed to a civil post. The argument of the applicant's side that the respondent authority ought to have fixed a lower cut-off mark for the candidates participating from the Civic Volunteers category is not acceptable and not tenable. The Tribunal is satisfied that the qualifying cut-off marks fixed by the respondent authorities for each category was well within their powers and such fixation did not cause any prejudice against any candidate. Therefore, the Tribunal is of the clear opinion that there was no reason for the applicants to argue that the prescribed cut-off marks for their category was arbitrary and unreasonable. The Tribunal cannot accept the plea that a lower cut-off marks would have helped the applicants to be successful. Candidates under horizontal reservation are evaluated based on the cut-off for their respective vertical category and then considered for the horizontal reservation. The seats for horizontal reservations cannot be filled up

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by candidates unless they attain the required cut-off marks. Thus, the present applicants who have failed to attain the required cut-off marks cannot be considered for appointment under horizontal reservation.

With the above observations, this Tribunal concludes that the applicants could not qualify in their respective categories in matching the cut-off marks and therefore, their argument is not tenable. The Tribunal is also aware that it cannot interfere and override the decision of the authorities in deciding what ought to have been the cut-off marks to qualify successfully in this recruitment process.

Hence, the prayers devoid of any merit, this application is disposed of without passing any orders.

SAYEED AHMED BABA  
Officiating Chairperson & Member (A)

S.M.