

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Justice Soumitra Pal (Chairman)  
& The Hon'ble Mr. P. Ramesh Kumar (Administrative Member)

Case No – OA – 101 OF 2019

**BIPLAB RAKSHIT** Vs The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p style="text-align: center;">4</p> <hr/> <p>11.04.2019</p>	<p>For the Applicant : Mr. A. Hati, Mrs. P. Roy Mishra, Advocates</p> <p>For the Respondents: Mr. R.A. Chowdhury, Advocate</p> <p style="text-align: center;">In this application Biplab Rakshit, the applicant, - who had taken part in the selection process for the post of “Executive Assistant” in the Department of Panchayet and Rural Development, Government of West Bengal under the Purulia Zilla Parishad, - has prayed for certain reliefs, the relevant portion of which is as under :</p> <p style="text-align: center;">“a. An order do issue by directing the respondent authorities particularly the appointing authority i.e. Respondent No. 2 to recast the panel of selected 41 candidates as per the observation made by Hon’ble High Court, Calcutta in its order dated 11.06.2014.</p> <p style="text-align: center;">b. An order do issue by directing the</p>	

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	<p>respondent authority to appoint the applicant to the post of Executive Assistance after proper recasting the panel by rectifying the marks awarded in question no. '55'.....”</p> <p>It appears that selection process was held in the year 2012. The selection process consisted of two parts, written examination and interview. The applicant being dissatisfied with the marks obtained had applied under the Right to Information Act, 2005 for certain information. Having been furnished with some information, he moved before the High Court by filing a writ petition being W.P. No. 4367 (W) of 2014 and the High Court on 11<sup>th</sup> June, 2014 has passed an order, the relevant portion of which is as under :</p> <p>“At the time of hearing of this matter, the learned advocate appearing on behalf of the State submits that he has obtained necessary instructions from the office of the State Institute of Panchayat &amp; Rural Development, Kalyani, Nadia. He hands up a copy of such instructions which he has received from the Deputy Director of the concerned Institute, which may be kept on record.</p>	

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	<p>Upon perusal of the sme, it appears that the only issue, as sought to be raised in the instant writ petition by the petitioner, has been clearly answered in his favour by the Deputy Director of the State Institute of Panchayat &amp; Rural Development, Kalyani, Nadia. He has specifically stated that so far as the answer to question no.55 is concerned, the same would be option "D". It is the admitted position that the petitioner had provided option "D" as the answer to question no.55. In such a fact situation, the petitioner would become eligible to be considered for appearance at an interview to be conducted by the District Level Selection Committee for the purpose of being considered for the post of Executive Assistant under General category in any Gram Panchayat in the district of Nadia.</p> <p>The writ petition is, therefore, disposed of with a direction upon the</p>	

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	<p>concerned respondent authority to act in terms of the observations made hereinabove, provided of course, there exists any vacancy for the post for which the petitioner had applied for.”</p> <p>It appears that pursuant to the application under the Right to Information Act, 2005 the authorities have supplied the cut off marks for the candidates in the General Category which was 68.50 in the written examination and 13.40 in the interview, total being 81.90.</p> <p>As evident from the records it appears pursuant to the order of the High Court, the District Magistrate, Purulia held an interview which is evident from the memo No. 590 dated 7<sup>th</sup> May, 2015, the relevant portion of which is as under :</p> <p>“Sub: Regarding the order of hon’ble High Court, Calcutta in connection with the W.P. 4367 (W) of 2014, Biplab Rakshit Vs. State of West Bengal &amp; Ors.</p> <p>With reference to the W.P. 4367 (W) of 2014, Biplab Rakshit Vs. State of West Bengal &amp; Ors., you were considered for appearing in the interview conducted by the</p>	

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	<p>District Level Selection Committee, Purulia on 8.1.2015 and thus the order of Hon'ble High Court, Calcutta in connection with the W.P. 4367 (W) of 2014, Biplab Rakshit Vs. State of West Bengal &amp; Ors. was complied with.</p> <p>You had obtained 65 marks in the written examination and were awarded 2.5 marks for being considered for the said interview, as per order of the Hon'ble High Court. Thus your marks for the written examination stood at 67.5.</p> <p>Now, you have obtained 10.35 in the interview and thus your total mark for the said examination for the post of Executive Assistant under General Category is 77.85.</p> <p>This total 77.85 marks is below the lowest total marks of 81.90 obtained by the last candidate appointed to the post of Executive Assistant under the General Category.</p> <p>In view of the above circumstances, you do not qualify for the said post of Executive Assistant under the General category.”</p> <p>Mr. Hati, learned advocate for the applicant</p>	

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	<p>submits that as it is his firm belief that the selected candidates, including the last selected candidate, had wrongly answered the question no.55, the marks wrongly allotted to them should be deducted, and since after addition of 2.5 marks, position of his client will at least be above the last selected candidate the applicant may be directed to be appointed after recasting the panel as prayed for, after eliminating the last selected candidate since according to him the bench mark was 67.5 marks.</p> <p>Mr. R.A. Chowdhury, learned advocate appearing on behalf of the State respondent submits that since no ground has been made out challenging the memo dated 7<sup>th</sup> May, 2015 and consequently no prayer has been made for quashing the said memo and as no order can be passed against any selected candidate or even the last selected candidate as they are not parties to the application, no order may be passed.</p> <p>Heard Mr. Hati and Mr. Chowdhury. It appears from memo dated 7<sup>th</sup> May, 2015 that the applicant had secured total 77.85 marks, which is the lower than the total marks of 81.90 obtained by the last selected candidate appointed to the post of Executive Assistant under the General Category and hence, he was not selected.</p> <p>It appears that this application has been filed</p>	

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	<p>making statements, the relevant portion of which is as under :</p> <p>“5. That ultimately the applicant moved a writ petition before the Hon’ble High Court, Calcutta, for proper clarification against the outcome of answer of question no. ‘55’. Lastly as per the intervention of the Hon’ble Court it has now established that answer made by the applicant against question no. 55 is a correct one and ultimately his secured number i.e. 65 raised to 67.5 by adding 2.5 marks against question no. 55.</p> <p>Xerox copy of order of Hon’ble High Court dated 11.06.2014 and 18.06.2014 as well as the copy of recasted mark collectively annexed herein and marked with letter “C”.</p> <p>6. That in the light of the order of the Hon’ble High Court, Calcutta the authority ought to have recasted the panel in respect of all selected candidates, because as per the memo vide No. 770/GP dated 04.06.2015 it is</p>	

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	<p>apparent that the last selected candidate under general category has got 68.50 marks in the written test wherein the disputed 2.5 marks against question no. 55 is there. So if such number be deducted from such 68.50 marks than the last selected candidate's mark will come 66 marks, wherein the applicant marks is now 67.5, which is more than the last selected candidate. But the authority till date did not recast the panel as per the observation made by the Hon'ble Court, hence the irregularities are persisting.</p> <p>Xerox copy of memo dated 04.06.2015 is annexed herein and marked with Letter "D".</p> <p>7. That the respondent authorities again committed a further mistake and call for a further invitation to fill up 28 vacancies to the post in question wherein 6 (six) vacancies from notification dated 02.04.2012 have been carried for, although such illegal action challenged before the Hon'ble Tribunal and the same has been</p>	



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	<p style="text-align: center;">suspended by the Tribunal.”</p> <p style="text-align: center;">The grounds for relief are as under :</p> <p style="margin-left: 40px;">“I. For that as per the observation of the Hon’ble High Court, Calcutta selected 41 candidates marks has not yet been revaluated.</p> <p style="margin-left: 40px;">II. For that it was a duty of the respondent authority to correct their stand by recasting the panel after revaluation the marks which has already been awarded in favour of selected candidates against question no. 55.</p> <p style="margin-left: 40px;">III. For that till date informations sought for by the applicant and his father have not yet been supplied although being the statutory authority they are compelled to do so, therefore, all records in original, relates to the selection process of 2012 is required to be placed before this tribunal for proper justice.</p> <p style="margin-left: 40px;">IV. For that carry forward of 6 (six) vacancies in subsequent selection</p>	

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SCN	<p style="text-align: center;">process of 2016 is a clear violation of the fair play be a welfare state.”</p> <p style="text-align: center;">We find that no ground has been made out challenging the memo dated 7<sup>th</sup> May, 2015 and there is no prayer for quashing the said memo. Further if the last selected candidate is excluded from the panel of selected candidates, it would be denial of natural justice to him as he is not a party to this application. Therefore, no order is passed in this application. Hence, the application is dismissed.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p style="text-align: right;">(Soumitra Pal) CHAIRMAN</p>	