

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

Hon'ble Justice Soumitra Pal, Hon'ble Chairman &  
Hon'ble Dr. Subesh Kumar Das, Administrative Member.

**CASE NO. OA 228 of 2020.**

**DEBASISH BHATTACHARJEE-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>26.11.2020.</p>	<p>For the Applicant : Mr. S. Ghosh, Advocate.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Advocate.</p> <p style="text-align: center;">In this application Debasish Bhattacharjee, the applicant, has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p style="text-align: center;">“a).....An order do issue directing the concerned respondent authorities to forthwith fix the seniority of the applicant in the cadre of “Inspector of Drugs” in the West Bengal General Service under the Directorate of Drugs Control, West Bengal on and from 28.09.2018 amongst empanelled and appointed candidates as per merit list dated 15.11.2017, as per marks obtained by him.</p> <p style="text-align: center;">b) An order do issue directing the concerned respondent authorities to fix the inter-se- seniority of the applicant amongst the empanelled and appointed candidates as per merit list dated 15.11.2017 within a stipulated time period.</p> <p style="text-align: center;">c) An order do issue thereby directing the</p>	

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	<p>respondent authorities to dispose of the representation dated 20.01.2020 by recording a reasoned and speaking order after giving an opportunity of hearing and to communicate the same within a stipulated time period....”.</p> <p>It appears that the applicant was appointed on contractual basis in the post of Pharmacist and was regularised with effect from 17<sup>th</sup> May, 2007. Thereafter, the Health Recruitment Board, Department of Health and Family Welfare, Government of West Bengal on 22<sup>nd</sup> February, 2016 advertised for filling up the vacancies of Inspector of Drugs. Accordingly the applicant filed a representation dated 25<sup>th</sup> February, 2016 before the authorities praying for permission for submission of application for the post of Inspector of Drugs under the Directorate of Drug Control under Health and Family Department. The prayer was allowed. The applicant participated in the selection process for the post of Inspector of Drugs. It appears initially the name of the applicant did not figure in the merit list and was not</p>	

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	<p>forwarded for appointment by the West Bengal Health Recruitment Board owing to error in calculating the total marks. The applicant made an application under the Right to Information Act, 2005 and found that there were mistakes in calculating the marks. The representation was made before the State respondents. The submission of the applicant was found to be correct and accordingly a notification dated 6<sup>th</sup> September, 2019 was issued by the Additional Secretary to the Government of West Bengal, being annexure "C" to the application, recommending his name for the post of Inspector of Drugs. On 28<sup>th</sup> November, 2019 the applicant joined as Inspector of Drugs in the West Bengal General Service under the Director of Drugs Control, West Bengal. However, since the name of the applicant did not figure in the merit list prepared by the Health Recruitment Board, the applicant found that his inter se-seniority has to be fixed. Accordingly a representation dated 28<sup>th</sup> January, 2020 was furnished before the respondents herein praying for fixation of inter se-seniority amongst those empanelled</p>	

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	<p>and appointed as per the merit list dated 15<sup>th</sup> November, 2017 prepared by the Secretary to the Government of West Bengal.</p> <p>Mr. S. Ghosh, learned advocate for the applicant submits that since the Health Recruitment Board erred in not allotting five marks and the applicant was initially denied appointment and subsequent correction of mistake enabled him to get appointed, appropriate direction may be issued for consideration of the representation dated 20<sup>th</sup> January, 2020 praying for fixation of inter-se-seniority. .</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits that assuming upon consideration of the representation dated 20<sup>th</sup> January, 2020 inter-se-seniority of the applicant is fixed, as a writ petition, being WPST No. 120 of 2018 (Abhijit Das &amp; Others –Vs- The State of West Bengal &amp; Others) is pending where an order has been passed on 28<sup>th</sup> January, 2020, the appointment should be treated as provisional and shall abide by the judgement</p>	

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	<p>passed in W.P.S.T. No. 120 of 2018 which appears from the notification for appointment dated 6<sup>th</sup> September, 2019, the entire exercise may be directed to be provisional.</p> <p>Having heard the learned advocates for the parties and considering the facts and circumstances, since the applicant has filed a representation dated 20<sup>th</sup> January, 2020 for fixing his inter se-seniority in the cadre of Inspector of Drugs in the West Bengal General Service under the Directorate of Drugs Control, West Bengal on and from 28<sup>th</sup> September, 2018 among empanelled and appointed candidates as per merit list dated 15<sup>th</sup> November, 2017, considering such fact, the original application is disposed of by directing the Secretary, Department of Health and Family Welfare, Government of West Bengal, Kolkata, - the respondent no. 1 to dispose of the representation dated 20<sup>th</sup> January, 2020 by passing a reasoned order to be communicated to the parties within eight weeks from the date of presentation</p>	

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Skg.	<p>of a copy of this order downloaded from the internet/website after verifying the records, after obtaining a report from the Health Recruitment Board, if required and after taking into consideration the order passed on 20<sup>th</sup> January, 2020 in W.P.S.T. No. 120 of 2018 (Abhijit Das &amp; Others –Vs- The State of West Bengal &amp; Others).</p> <p>Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	