

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

Hon'ble Justice Soumitra Pal, Hon'ble Chairman.
& Hon'ble Mr. P. Ramesh Kumar, Administrative Member.

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>9 ----- 27.9.2018.</p>	<p style="text-align: center;"><u>OA 407 of 2016</u></p> <p>Sukhendu Pandey+22 Others-Vs- The State of W.B. & Ors.</p> <p style="text-align: center;"><u>OA 886 of 2016.</u></p> <p style="text-align: center;">Dibyendu Dutta Khan -Vs- The State of W.B. & Ors.</p> <p>For the Applicants : Mr. B. Banerjee, Advocate.</p> <p>For the State Respondent : Mr. M.N. Roy, Advocate.</p> <p>Mr. B. Banerjee, learned advocate on behalf of the applicant submits that since issues involved are similar, OA 407 of 2016 may be taken up for hearing along with OA 886 of 2016.</p> <p style="text-align: center;">Prayer is considered and allowed.</p> <p>For brevity and clarity, we refer to the facts in OA 407 of 2016. In OA 407 of 2016 the applicants have prayed for a direction upon the state respondents to appoint the applicants in the post of junior Police constables in West Bengal Police in the districts of Bankura, Purulia and Paschim Midnapore.</p> <p style="text-align: center;">It appears that in 2011 an advertisement was</p>	

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Form No.

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Case No.

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	<p>published in a daily newspaper seeking applications for 5000 vacancies. Pursuant to the application the applicants, who belong to General Category, OBC B, Scheduled Caste and Scheduled Tribes, applied. They passed the physical measurement test, physical efficiency test and the written test. Subsequently, they were called for interview. They appeared in the interview. Results were published. However, their names were not in the final merit list. They filed an application under the Right to Information Act, 2005 seeking certain information. They were informed that out of 5000 declared vacancies only 3471 vacancies have been filled up. According to the applicants an advertisement was published on 4th March, 2016 for filling up vacancies which included the vacancies of the earlier recruitment process. According to the applicants since 5000 vacancies were declared and as there are still large numbers of vacancies, directions be issued for giving appointment.</p> <p>Mr. M.N. Roy, learned advocate on behalf of the state respondents relying on the written reply submits that evidently the applicants scored lesser marks than the total marks obtained by the last selected</p>	

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	<p>candidate. It is not the case of the applicants that there was illegality or irregularity in the selection process. The state authorities have filled up the said posts in accordance with the norms. In this regard reliance has been placed on the judgement of the Supreme Court in Shankarsan Dash –vs- Union of India : AIR SC 1991 page 1612. Though the selection process was over in the year 2011 and as this application has been filed in the year 2016, it is hit by section 21 of the Administrative Tribunals Act, 1985.</p> <p>Heard learned advocates for the parties. It has not been controverted in the rejoinder filed by the applicants that the petitioners secured lesser marks than the last selected candidates. The submission of the applicants that their candidature should have been considered in the subsequent selection process is without any basis as in Shankarsan Dash (supra) it has been held that <i>“.....Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona</i></p>	

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Skg.	<p><i>fide for appropriate reasons.....".</i> Facts do not reveal that there were irregularities or illegalities while conducting the selection process. Rather the applicants got lesser marks than the last selected candidates. Moreover, this application has been moved after more than four years from the date of publishing the results and is barred by the limitation prescribed under section 21 of the Administrative Tribunals Act, 1985. Hence, there is no merit in the applications. The applications being OA 407 of 2016 and OA 886 of 2016, are dismissed.</p> <p>No order as to costs.</p> <p>(P. Ramesh Kumar) Member (A)</p> <p>(Soumitra Pal) Chairman.</p>	

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