

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

Hon'ble Justice Soumitra Pal,
Hon'ble Mr. P. Ramesh Kumar,

Hon'ble Chairman &
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>26 15.1.2020.</p>	<p>Case No. OA 872 of 2015 : Abhijit Das(SC) & Ors –Vs- State of W.B. & Ors.</p> <p>For the Applicants : Mr. M.N. Roy, Mr. P.K. Sanyal, Advocates.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. S. Ghosh, Advocates.</p> <p>Case No. OA 912 of 2015 : Goutam Chowdhury & Ors. –Vs- State of W.B. & Ors.</p> <p>For the Applicants : Mr. M.N. Roy, Mr. P. K. Sanyal, Advocates.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. B.P. Roy, Advocates.</p> <p>Case No. OA 913 of 2015 : Subhankar Deb –Vs- State of W.B. & Ors.</p> <p>For the Applicant : Mr. M.N. Roy, Mr. P. K. Sanyal, Advocates.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. D. Koley, Advocates.</p> <p>Case No. OA 916 of 2015 : Sreedam Karmakar & Ors –Vs- State of W.B. & Ors.</p>	

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	<p>For the Applicants : Mr. M.N. Roy, Mr. P.K. Sanyal, Advocates.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. S.Ghosh, Advocates.</p> <p>Case No. OA 917 of 2015 : Sk. Naimuddin & Ors –Vs- State of W.B. & Ors.</p> <p>For the Applicants : Mr. M.N. Roy, Mr. P.K. Sanyal, Advocates.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. S.Ghosh, Advocates.</p> <p>Case No. OA 1092 of 2015 : Bibekananda Goswami & Ors –Vs- State of W.B. & Ors.</p> <p>For the Applicants : Mr. M.N. Roy, Mr. P. K. Sanyal, Advocates.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. B.P. Roy, Advocates.</p> <p>Since issues are similar OA 872 of 2015 along with OA 912 of 2015, OA 913 of 2015, OA 916 of 2015, OA 917 of 2015 and OA 1092 of 2015 have been heard analogously with the consent of Mr. M.N. Roy, learned advocate appearing in all the matters for the applicant and Mr. G.P. Banerjee, Mr. S. Ghosh, Mr. B.P. Roy and</p>	

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	<p>Mr. D. Koley, learned advocates for the State respondents in all the matters. Since issues are similar, reference will be made to OA 872 of 2015 for convenience.</p> <p>In this application, the applicants have prayed for certain reliefs, the relevant portion of which is as under :-</p> <p><i>“.....(a) An order to issue directing the respondent authorities to quash/cancel/the letter dated 20.01.2015 and to act in terms of the solemn order dated 13.08.2013 and 20.02.2015 immediately by issuing appointment letters to your applicants herein within a stipulated time period.</i></p> <p><i>(b) An order do issue directing the respondent authorities to issue appointment letters considering the candidature of the applicants after condoning their ages if any within a stipulated time period with due emphasis on their empanelment and having other clearances as required for appointment...”.</i></p> <p>In this application the applicants have stated that their names were requisitioned by the Irrigation and Waterways Department, Government of West Bengal from various Employment Exchanges for the</p>	

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	<p>purpose of recruitment to fill up 1446 Group 'D' post under them. They appeared in the interview. A panel of successful candidates was prepared by the authority and was published in a daily newspaper. Be it mentioned that regarding recruitment there were certain proceedings before the High Court. Ultimately it went up before the Supreme Court. The Supreme Court disposed of the appeal by passing an order the relevant portion of which is as under :-</p> <p style="text-align: center;"><i>".....There can be no scintilla of doubt that there was requirement of advertisement for inviting the names. However, as we perceive, the present case projects a totally different picture. The number of posts available was 1446 in the group 'D' category. For the said posts more than 57000 candidates competed. On a query being made, the learned counsel for the State would admit that the vacancies have not been filled up because of pendency of litigation. . Regard being had to the special features of the case, we are inclined to set aside the order of the High Court and that of the tribunal and we so do. We further direct the State Government to fill up the posts available from among the select list. We may hasten to clarify that if any one whose name features in</i></p>	

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	<p><i>the select list has been appointed in any other department or statutory organization or Government company, he cannot claim an appointment in the Department of Irrigation and Waterways. We further direct the respondent-State and its functionaries to adjust respondents 1 and 2 and extend them the benefit of appointment. The appointees cannot claim any seniority with retrospective effect as that might create cavil amongst the appointees in other departments at earlier point of time. The aforesaid exercise shall be completed within a period of eight weeks from today.....”.</i></p> <p>Thereafter, contempt application was filed for alleged non compliance of the order which was disposed of by the Supreme Court by passing an order, the relevant portion of which is as under :-</p> <p><i>“.....5. We take on record the compliance affidavit filed on behalf of the respondents, dated 11.02.2015. Having gone through the said affidavit, we are of the considered opinion that the respondents have substantially complied with the orders and directions issued by this Court, dated 13.08.2013. In that view of the matter, we drop the contempt proceedings against the respondents. Accordingly, the contempt petitions are</i></p>	

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	<p><i>disposed of.</i></p> <p><i>6. However, we direct the respondents-herein to issue appropriate communications/letters to those candidates/petitioners who could not be issued letters of appointment, as early as possible within 45 days from today.</i></p> <p><i>7. If for any reason, any candidate/petitioner is aggrieved by the said communication/letter, he is at liberty to approach the appropriate forum for appropriate relief in accordance with law...”.</i></p> <p>As thereafter the applicants herein were not given appointment and their names were kept on hold, the applicants filed the Original Applications. Since Vigilance Commission, West Bengal, a necessary party, was not a party to the proceedings, pursuant to the direction of the Tribunal, the Vigilance Commission was added as a party respondent and are represented. Be it noted reply and rejoinders were directed to be filed. Reply and rejoinders were filed. Supplementary reply and rejoinders have also been filed and are on record.</p> <p>It is submitted by Mr. M.N. Roy, learned advocate for the applicant that since before the Supreme Court the State had submitted that the selection was fair</p>	

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	<p>and as while disposing of the contempt application, the Supreme Court had directed the candidates/petitioners if aggrieved and if they are not appointed to approach the appropriate forum for appropriate relief, the applicants have filed the applications. As it is evident from the reply as well as from the supplementary reply filed on behalf of the State respondents that no charge, have been levelled against the applicants and the applicants have not been summoned by the Vigilance Commission and as about nine years have passed since interim report was filed by a four Member Departmental Enquiry Committee, appropriate order may be passed directing the State respondents to appoint them. In this regard reliance has been placed on the judgement passed by the Tribunal on 25th July, 2019 in OA 472 of 2018 Tilok Chand Mondal & others –Vs- The State of West Bengal and others in support of his submission.</p> <p>Mr. G.P. Banerjee, Mr. B.P. Roy, Mr. S. Ghosh and Mr. D.Koley, learned advocates for the State respondents relying on the reply as well as the supplementary reply submit that pursuant to the one man committee report, a Four Man Departmental Committee was formed. The said Committee had found</p>	

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	<p>that fifty successful candidates, had allegedly benefitted during the process of recruitment of Group 'D' staff for having relation with the officer/staff as identified pursuant to the complaints made available to the Four Member Departmental Enquiry Committee. Submission is as after the said report, the matter was enquired into and thereafter Articles of Charges have been issued against the three very senior Officers by the State Vigilance Commission. Thereafter, proceedings against one of the officer have been completed and as the said officer has retired, the approval of the highest authority of the State has been sought for to initiate appropriate action against him. So far the other two senior officers are concerned, proceedings are continuing and it is expected that it will be concluded soon. Referring to the said Articles of Charges, submission is the names of the some of the candidates appear and departmental proceeding is a complex process, no order may be passed at this stage. It is submitted that the judgement of Tilok Chand Mondal (supra) has no application as therein even after filing of FIR no progress was made with regard to investigation for a period of an year and half and the Tribunal did not accept an unsigned and undated report dated 24th July,</p>	

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	<p>2019, whereas in the instant case, one departmental proceeding has come to an end and two are progressing.</p> <p>Admittedly the Four Man Departmental Enquiry Committed have furnished a list of successful candidates, who had allegedly benefitted during the process of recruitment of Group 'D' staff. It is not disputed that thereafter proceedings have been drawn up against the three senior officers alleged to be involved in the recruitment process. One proceeding has come to an end with the filing of report. However as the officer concerned has superannuated, approval has been sought for from the highest authority of the State to take steps against him. So far as the other two departmental proceedings are concerned, we find it is progressing. It also appears that the names of some of the applicants find mention in the Articles of Charges. Hence, as departmental proceedings are continuing and as the instant case is distinguishable from Tilok Chand Mondal (supra) as therein even after filing of FIR no progress was made with regard to investigation and an unsigned and undated report was furnished on behalf of the State respondents and whereas in the instant case steps have been taken as departmental proceedings are continuing,</p>	

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Skg.	<p>no order is passed on the application. Hence, the applications being Nos. OA 872 of 2015, OA 912 of 2015, OA 913 of 2015, OA 916 of 2015, OA 917 of 2015 and OA 1092 of 2015 are dismissed. However, we make it clear that we have not gone into the veracity of the departmental proceedings.</p> <p>(P. Ramesh Kumar) Member (A)</p> <p>(Soumitra Pal) Chairman.</p>	