

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

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

Hon'ble Chairman &
Administrative Member.

Case No. OA 898 of 2016.

BIKASH MONDAL & ORS - VERSUS- THE STATE OF W.B. & OTHERS.

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>18 21.11.2019.</p>	<p>For the Applicants : Mr. G.P. Banerjee, Mr. D. Sarkar, Advocates.</p> <p>For the State Respondent : Mr. S. Ghosh, Advocate.</p> <p>In this application the applicants who had applied for the Group 'D' post under Irrigation and Waterways Directorate, Eastern Circle, Government of West Bengal, have prayed for certain reliefs, the relevant portion of which is as under :-</p> <p><i>“(a).....An order do issue directing the concerned respondent authorities to forthwith supply the panel of eligible candidates of 1446 to the post of “Group-D” under Irrigation and waterways Directorate, Government of West Bengal to applicants in view of the application under section 6 and 7 of the Right to Information Act, 2005 made by them.</i></p> <p><i>(b) An order do issue directing the concerned respondent authorities not to give effect to the impugned select list of the candidates for appointment to the post of “Group-D” under Irrigation and waterways Directorate, Government of West Bengal till the disposal of the instant</i></p>	

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	<p><i>application.</i></p> <p><i>(c) An order of directing the concerned respondent authorities to supply the panel list of eligible candidates of remaining 256 posts which has not been published till date as the respondent authorities have only published eligible candidates of 1190 posts out of 1446 posts to the post of "Group-D" under Irrigation and waterways Directorate, Government of West Bengal....".</i></p> <p>Directions were issued to file reply and rejoinder. Reply and rejoinder have been filed and are on record.</p> <p>It appears that the case has a chequered history. There were several litigations and ultimately the matter was before the Supreme Court wherein judgement was passed on 13th August, 2013 in Civil Appeal Nos. 6748-6749 of 2013 arising out of SLP(C) Nos. 6177-6178 of 2012 (Buddhadeb Ruidas & Ors – versus- State of West Bengal and Ors) along with other civil appeals, the relevant portion of which is as under :-</p> <p><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</i></p>	

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	<p><i>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 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>Mr. G.P. Banerjee, learned advocate appearing for the applicant submits that though</p>	

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	<p>admittedly 1190 posts out of 1446 posts in the Group D have been filled up, 256 posts are still lying vacant and the entire select list for 1446 posts is yet to be declared. Mr. Banerjee has relied on the judgement in Buddhadeb Ruidas & Ors (supra), particularly paragraph 12 thereof, in support of his submission.</p> <p>Mr. S. Ghosh, learned advocate appearing on behalf of the State respondents relying on the reply particularly the annexure thereto, submits that it is evident that one of the candidates, who has filed this application does not belong to Eastern Circle region. Since other applicants have secured lesser marks in their respective categories, as evident from the annexure to the reply of the original application, the application is without merit. Referring to paragraph 12 of the judgement in Buddhadeb Ruidas (supra), it is submitted that as there was a direction to fill up the posts amongst the select list, appointments have been given to the eligible candidates whose names figured in the select list and thus 1190 posts have been filled up.</p> <p>Heard learned advocate for the parties. There is no dispute that 1190 posts have been filled up by the candidates appearing in the select list. It appears from</p>	

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Skg.	<p>the reply that save and except Amaresh Mondal who does not belong to the Eastern Circle, other applicants got lesser marks than the last selected candidate in their respective categories. It also appears from the submission that select list was widely published in the daily newspaper on 24th July, 2010 and modification to the said publication was published in the newspaper on 31st July, 2010 as evident from paragraph 6 of the reply. The select lists has not been challenged. It is clear that the name of the applicants did not figure in the select list. Since the appointments were made out of the select list and the name of the applicants did not figure in that select list and as it is up to the State to decide to fill up the vacant posts, no order is passed on the application. The application is dismissed.</p> <p>(P. Ramesh Kumar) Member (A)</p> <p>(Soumitra Pal) Chairman.</p>	