

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

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

Case No -OA-493 of 2019.

Manas Chakraborty. -Vs- The State of West Bengal & 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 style="text-align: center;"><u>5</u> 16.1.2020.</p>	<p>For the Applicant : Mr. A. Banerjee, Mr. A. B. Chakraborty, Advocates.</p> <p>For the State Respondents : Mr. M. N. Roy, Advocate.</p> <p>In this application, Manas Chakraborty, the applicant, who applied for the post of Constable in Kolkata Police, 2012 recruitment process, has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p style="padding-left: 40px;"><i>".....a) An order do issue directing the respondent concerned to give an appointment to the applicant for the post of Constable under Kolkata Police 2012 being a selected and empanelled candidate for the said selection process,</i></p> <p style="padding-left: 40px;"><i>b) Direction upon the respondent authorities to take all necessary steps for appointment of the applicant to the post of Constable under Kolkata Police.</i></p> <p style="padding-left: 40px;"><i>c) A direction upon the respondent authority to transmit the entire record of selection process for the post</i></p>	

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	<p><i>of Constable under Kolkata Police 2012 before this Hon'ble Tribunal, so that conscionable justice may be given, after perusing the same.</i></p> <p>....."</p> <p>After the matter was admitted on 22nd August, 2019, directions were issued to file reply and rejoinder and the point of maintainability was kept open.</p> <p>Mr. A. Banerjee, learned advocate for the applicant submits that as the applicant had succeeded in measurement as well as in the other parameters of the selection process and was called for interview and as his name appears under serial no. 1854, appearing at page 16 of the application, appropriate order as prayed for may be passed. Referring to the reply it is submitted that since the statements made therein, particularly paragraph-6 (ii) is not based on record, the record may be directed to be called for.</p> <p>Mr. M. N. Roy, learned advocate appearing on behalf of the State respondents relying on the reply submits that since the cause of action, if any, arose in the year 2013 and as this application was moved in 2019 and as the point of maintainability was kept open in view of the provisions in Section-21 of the Administrative Tribunals</p>	

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	<p>Act, 1985 and since the statements made in paragraph-6 particularly sub paragraph (ii) of the reply have not been controverted in the rejoinder and as the records have been destroyed pursuant to the resolution taken by the Kolkata Police Recruitment Board being annexure-'X-1' to the reply, no order may be passed.</p> <p>Heard learned advocates for the parties.</p> <p>There is no dispute that the recruitment process took place in the year 2012.</p> <p>The question is whether the applicant succeeded in the selection process. In this regard it is appropriate to refer paragraph-6 (ii) of the reply, which is as under:-</p> <p style="padding-left: 40px;"><i>" 6 (ii) With reference to the averments made in paragraph 4 (a) to 4 (i) of the said Original Application, I deny and dispute everything contained therein save and except what are matters of record. I further state the said recruitment drive was taken up by the Kolkata Police Recruitment Board and an advertisement was published on 12th January, 2012. The applicant in the Original Application has stated that, he applied accordingly, the Admit</i></p>	

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	<p><i>card was issued to him. I further state that, the entire selection process carried in fair and unbiased manner and it is also not the case of the applicant that, there was any malpractice that took place in the said recruitment drive. I further state that, the list annexed with the Original Application, wherein the name of the applicant appeared at serial no. 1854 is the list containing the name of the shortlisted eligible candidates, who were called in the interview/viva voce test and not the merit list as stated by the applicant in the instant Original Application. On completion of the interview a Final Merit list was published in the website, wherein names of 2354 provisionally selected candidates featured, out of which 1153 were from Unreserved Category, 576 from Scheduled Caste Category, 176 from Scheduled Tribe Category, 262 from OBC (A) Category, 185 from OBC</i></p>	

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	<p><i>(B) Category and 2 Ex-Serviceman candidates were provisionally selected. The name of the applicant never appeared in the list of provisionally selected candidates."</i></p> <p>The said paragraph has been dealt with in paragraph-7 of the rejoinder filed by the applicant, which is as under:-</p> <p><i>"..... 7. With reference to the allegations made in paragraph no. 6(ii) I repeat and reiterate the statement made in paragraph no. 4(a) to 4(i) and also relying the above statements herein above. I also deny and dispute the allegations made therein save and except what are matter of record. I state that applicant participated in the selection test both physical and measurement and also in the written and oral test. Finally I came out successfully in the said test and I was empanelled for appointment from the list which was prepared by the respondent authority.</i></p>	

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	<p><i>The date given by the answering respondent regarding the selection of unreserved category where my name has been placed by the respondent authority as a successful candidate within 1153 from the gross merit list as annexed in the O. A. Application.</i></p> <p><i>So, the allegation on non selection against my candidature is not tenable in the eye of law as well as in fact. I challenge the illegal action on the part of the respondent in not giving me the appointment to the said post.</i></p> <p><i>Hence I submit that the respondent should be directed by the Hon'ble Tribunal to produce all the records resolution meeting records and selection record including my selection before this Hon'ble Tribunal so that justice may be rendered to the applicant in deciding the Original Application."</i></p> <p>Since the name of the applicant never appeared in the provisional select list which has not been</p>	

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<i>Sourav.</i>	<p>controverted in the rejoinder, no order can be passed on the application. It is also very pertinent to note that as the point of maintainability of the the application has been kept open, as the cause of action, if any, arose in the year 2013 and this application was filed in 2019 and as this matter was not pending in 2012 and 2013 and since the records have been destroyed pursuant to the resolution taken, as evident from annexure 'X1' of the reply, no order can be passed on the application. Hence no order is passed on the application. The application is disposed of.</p> <p>(P. RAMESH KUMAR) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	