

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No –OA-572 of 2013

Lopsang Tamang 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
26 28.02.2020	<p>For the Applicant : Mr. S. N. Ray, Learned Advocate.</p> <p>For the State respondents : Mrs. S. Agarwal, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for granting him promotion from Group D post to the post of Lower Division Clerk (in short, LDC) w.e.f. July 22, 2010 and other consequential reliefs.</p> <p>The applicant joined in the Government service as General Duty Attendant at Bijanbari Primary Health Centre on December 13, 1990. The contention of the applicant is that he passed Secondary Examination from National Open School in the year 1999 and Senior Secondary Examination from National Institute of Open Schooling in the year 2012. The further contention of the applicant is that he was selected for promotion to the post of LDC by way of promotion (10% quota) from the post of Group D employee, but the applicant was denied promotion to the post of LDC. The applicant is aggrieved for not granting promotion to the post of LDC with effect from the date on which his other colleagues got promotion to the post of LDC.</p> <p>Mr. S.N. Ray, Learned Counsel for the applicant contends that the applicant passed Secondary Examination from National Open School in the year 1999 and Senior Secondary</p>	

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Examination from National Institute of Open Schooling in the year 2012 and thereby the applicant acquired essential qualification for promotion from Group D post (10% quota) to the post of LDC. He further submits that denial of promotion to the applicant is not justified under the law as the applicant was selected and his name was incorporated in the merit list of promotion from Group D post (10% quota) to the post of LDC.

Mrs. S. Agarwal, Learned Counsel representing the State respondents has relied on the reply and submitted that the applicant did not acquire essential qualification of passing Secondary (Madhyamik) Examination for grant of promotion from Group D post (10% quota) to the post of LDC. Relying on Government Order dated August 3, 2005 issued by the Department of School Education, Government of West Bengal, Mrs. Agarwal submits that the certificate awarded by Rabindra Mukta Vidyalaya or National Open School for passing Examination equivalent to Madhyamik Examination of West Bengal Secondary Board will be considered as essential qualification for grant of promotion from Group D post (10% quota) to the post of LDC, provided the candidate who passed Madhyamik or equivalent examination from National Open School must have cleared seven (07) subjects, which are similar to seven (07) subjects of Madhyamik Examination under West Bengal Board of Secondary Education. The specific submission

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of Mrs. Agarwal is that the present applicant did not clear seven (07) compulsory subjects in Secondary Examination or Senior Secondary Examination of National Open School and as such the certificate obtained by the applicant from National Open School for passing the Examination equivalent to Madhyamik Examination of West Bengal Secondary Board and the Examination equivalent to Higher Secondary Examination of West Bengal Higher Secondary Board cannot be considered as essential qualification for grant of promotion from Group D post (10% quota) to the post of LDC.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that passing of Madhyamik Examination of West Bengal Board of Secondary Examination or its equivalent examination is the essential qualification for grant of promotion from Group D post (10% quota) to the post of LDC.

The question for our consideration is whether the applicant passed Examination equivalent to Madhyamik Examination of West Bengal Board of Secondary Examination in order to fulfil the essential qualification for grant of promotion from Group D post (10% quota) to the post of LDC. On perusal of the documents annexed to the rejoinder by the applicant, we find that the applicant has produced one certificate from the Darjeeling-Nepali Girls' Social Service Centre registered under

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West Bengal Societies Registration Act, 1961, wherefrom it appears that the applicant passed Secondary Examination of the National Open School in the year 1999 in the following five (05) subjects : (i) Language, (ii) Social Science, (iii) Science, (iv) Economics and (v) Hindi. The marksheet of passing the said Secondary Examination of National Open School is not produced by the applicant. The other certificate and marksheet of passing Senior Secondary Examination by the applicant from National Institute of Open Schooling in the year 2012 cannot be taken into consideration by us as the process for promotion from Group D post (10% quota) to the post of LDC was completed in the year 2010.

The Government Order dated August 3, 2005 issued by the School Education Department (Appointment Branch), Government of West Bengal has clearly laid down that the certificate awarded by National Institute of Open Schooling recognised by the Government can be considered as certificate equivalent to Madhyamik Examination of West Bengal Board of Secondary Education, subject to fulfilment of the condition that the the Secondary Examination conducted by National Institute of Open Schooling must comprise seven (07) subjects (First Language, Second Language, Mathematics, Physical Science, Life Science, History and Geography) which are similar to seven subjects of Madhyamik Examination under West Bengal Board of Secondary Education.

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In the instant case, the applicant claims to have passed Secondary Examination from National Open School in the year 1999 by taking only five (05) subjects. Moreover, the marksheet of passing the said examination is not forthcoming before us, though an entry of passing the said examination is made in the service book of the applicant. Since the applicant did not pass Secondary Examination from National Open School by clearing seven (07) subjects, which are similar to those of Madhyamik Examination under West Bengal Board of Secondary Education, we are constrained to hold that the applicant did not pass examination equivalent to Madhyamik Examination under West Bengal Board of Secondary Education in terms of G.O. dated August 3, 2005 issued by the Department of School Education (Appointment Branch), Government of West Bengal.

The natural corollary of our above observation is that the applicant did not fulfil the eligibility of acquiring essential qualification of passing Madhyamik (Secondary) Examination for grant of promotion from Group D post (10% quota) to the post of LDC and as such the applicant is not entitled to get any relief in the present application.

As a result, the original application is dismissed.

Let a plain copy of the order be supplied to both the parties.

Rajib

**S. K. DAS
MEMBER(A)**

**R. K. BAG
MEMBER(J)**

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