

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
K O L K A T A – 7 0 0 0 9 1**

Present :-

Hon'ble Justice Ranjit Kumar Bag,
Judicial Member

-AND-

Hon'ble Dr. Subesh Kumar Das,
Administrative Member

J U D G M E N T

-of-

Case No. : O.A. 921 of 2010 : Debashish Sadhu & Ors.
..... **Applicants.**

-Versus-

State of West Bengal & Others.

..... **Respondents.**

For the Applicant Nos. 1-16:-

Mrs. S. Mitra,
Mr. D. K. Sadhu,
Learned Advocates.

For the Applicant Nos. 17 & 18 :

Mr. M.K. Das,
Ms. S. Hasin,
Learned Advocates.

For the Respondents :

Mr. S.N. Ray,
Learned Advocate.

Argument concluded on : 17.12.2019

Judgment delivered on : 17.12.2019

JUDGMENT

The applicants have prayed for direction upon the respondents to give them appointment in Group-D post in Mayurakshi Canal Circle, Directorate of Irrigation & Waterways, Government of West Bengal on the basis of the list published in the

newspaper on July 24, 2010 after setting aside the list published in the newspaper on August 12, 2010 and other consequential reliefs.

2. The backdrop of filing the present application by 18 (eighteen) applicants is as follows : In the year 2006, the Deputy Secretary to the Government of West Bengal, Department of Irrigation & Waterways conveyed the instruction of the Department to the Director of Personnel & Ex-Officio Chief Engineer, Directorate of Irrigation & Waterways for issuance of instructions to the Superintending Engineers of different circles to call for the names of eligible candidates from the Employment Exchange for filling up 1,446 Group-D posts under the Directorate of Irrigation & Waterways. Eventually, 57,437 candidates participated in the selection process. Out of 57,437 candidates only 24,520 candidates were sponsored by various Employment Exchanges and the remaining candidates were permitted to participate in the selection process by the order of the Tribunal and the High Court. The list of selected candidates was published in the newspaper on July 24, 2010. Some candidates aggrieved by the procedure of selection, approached the Tribunal by filing Original Application No. 454 of 2010. The dispute between the said candidates and the State of West Bengal was ultimately resolved by the Hon'ble Supreme Court by delivery of judgment on August 13, 2013 in Civil Appeal No. 6748-6749 of 2013 arising out of SLP (C) nos. 6177-6178 of 2012 (Buddhadeb Ruidas & Ors. v. State of West Bengal & Ors.). By judgment and order dated on August 13, 2013, the Hon'ble Supreme Court did not cancel the list of selected candidates on the ground that more than 57,000 candidates participated in the selection process, even though the advertisement for filling up the posts was not published in the daily newspapers. The Hon'ble Supreme Court gave direction for issuance of appointment letters to the selected candidates within specific period of time. A contempt application being contempt petition (C) nos. 462-463 of 2013 arising out of Civil Appeal Nos. 6748-6749 of 2013 (Buddhadeb Ruidas & Ors. v. Dhiman Mukherjee & Ors.) was initiated before the Hon'ble Supreme Court. Ultimately, the said contempt application was dropped by the Apex Court on the ground that the order passed by the Apex Court was substantially complied with by the state respondents. While disposing of the said contempt application, the Hon'ble Supreme Court gave direction to the state respondents to issue letter of appointment in favour of the selected candidates to whom the letter of appointment could not be issued till that date. However, the Hon'ble Supreme Court has observed in the order passed in connection with the contempt application that any candidate aggrieved in connection with issuance of

appointment letter is at liberty to approach the appropriate forum for appropriate relief in accordance with law.

3. With the above factual matrix, 18 (eighteen) applicants have approached this Tribunal praying for their appointment in Group 'D' posts on the basis of the list published in newspaper on July 24, 2010 after cancellation of the corrigendum published in the newspaper on August 12, 2010. The contention of the applicants is that their roll nos./identification no. were published in the select list published in daily Bengali newspaper (Ananda Bazar Patrika) on July 24, 2010. The further contention of the applicants is that the list of roll nos./identification no. of the candidates were subsequently amended/changed by publication of another list containing the names, father's name, roll nos./identification no. appearing in the list published in the newspaper on July 24, 2010 and roll nos./identification no. of the candidates collected from their respective bio-data in daily Bengali newspaper (Bartaman) on August 12, 2010. It is also contented on behalf of the applicants that they were selected and their roll nos./identification no. were duly published in the newspaper on July 24, 2010, but the same was subsequently changed/modified/added to their disadvantage by publication of another list of candidates in the newspaper on August 12, 2010.

4. Mrs. S. Mitra, Learned Counsel representing the applicants, contends that the first list published in the newspaper on July 24, 2010 was subsequently changed by publication of a second list of candidates on August 12, 2010. She further contends that the present applicants were selected on the basis of the interview and their roll nos./identification no. were duly published on July 24, 2010 and as such the second/subsequent list published on August 12, 2010 must to be quashed and appointment must be given to the applicants in Group-D posts on the basis of first list published in the newspaper on July 24, 2010. The applicants could persuade this Tribunal to pass an interim order on September 16, 2010, whereby the state respondents were restrained from issuing appointment letter in favour of the candidates whose names and identification nos appeared in the second/subsequent list published in the newspaper on August 12, 2010.

5. On the other hand, Mr. S.N. Ray, Learned Counsel representing the state respondents, has relied on the documents annexed to the reply of the state respondents and submitted that the official secret identification no of the candidates

was wrongly published instead of roll nos./identification no. of the selected candidates in the newspaper on July 24, 2010 only in connection with 84 (eighty four) selected candidates of Mayurakshi Canal Circle. He further submits that as soon as the mistake was detected, it was published in daily Bengali newspaper (Ananda Bazar Patrika) on July 29, 2010 that a clarification/corrigendum of the list published on July 24, 2010 will be published for all concerned as early as possible. Accordingly, the list of selected candidates published by using official secret code no. was clarified by giving the name and other particulars including roll no/identification no of the selected candidates by publication of the same selected candidates in the daily Bengali newspaper (Bartaman) on August 12, 2010. By filing supplementary reply, the state respondents have furnished photo copy of the evaluation sheet of not only the selected candidates, but also of the present 18 (eighteen) applicants. The marks obtained by each of the applicants and marks obtained by the selected candidates along with their names, father's name, official secret code no. published wrongly in the newspaper on July 24, 2010 and correct roll nos./identification no. of the said selected candidates collected from their respective bio-data have been clearly described in the said documents annexed to the supplementary reply of the state respondents. The gist of submission of Mr. Ray is that there is no existence of second panel or second list of selected candidates as contended on behalf of the applicants. According to Mr. Ray, the list of candidates containing their names, father's name, roll nos./identification no. of the selected candidates collected from bio-data and the official secret code no. wrongly shown as roll nos./identification no. in the list published on July 24, 2010 are indicative of the fact that the second subsequent list was nothing but rectification/clarification of the identity of the selected candidates.

6. Under the above facts and circumstances the following two issues emerge for our consideration: first, whether the applicants were shown as selected candidates in the list published in the newspaper on July 24, 2010 and secondly, whether the list of selected candidates published in the newspaper on August 12, 2010 is by way of clarification of the previous list published on July 24, 2010. We requested Mrs. Mitra, Learned Counsel for the applicants, to furnish information of present 18 (eighteen) applicants by giving particulars of their identification nos./roll nos. appearing in the call letter and identification nos./roll nos. appearing in the newspaper on July 24, 2010. On perusal of the information furnished in the table, we find that identification nos./roll nos. appearing in the call letters of at least 4 (four)

applicants viz. Debashis Dhibar, Sanjit Das, Ramtanu Siddhanta and Anurupa Sadhu were not correctly furnished before us, as the no. appearing within bracket in the identification no of these applicants were not furnished on behalf of the applicants. We have carefully examined the identification nos./roll nos. appearing in the call letters of each of the applicants and the identification no. of 84 (eighty four) candidates appearing in the list published in the newspaper on July 24, 2010. We do not find that the same identification no. appearing in the call letter, which was published in the list of selected candidates on July 24, 2010. For example, the identification no. of the applicant Debashish Sadhu appearing in the call letter dated November 16, 2007 is "MCC/07/EXCH/BP/467", whereas the similar identification no. appearing in the list of the selected candidates published on July, 2010 is shown as "MCC/07/EXCH/467(B)". Thus, the letters of "BP" appearing in the identification no. in the call letter of the candidate Debashish Sadhu is absent from the similar identification no. appearing in the list of the selected candidates published on July 24, 2010. Moreover, the letter "(B)" appearing in the list of selected candidate published on July 24, 2010 is absent from similar identification no appearing in call letter of the applicant Debashish Sadhu. We would like to cite another example of the applicant Debashis Dhibar whose identification no. appearing in the call letter dated January 18, 2008 is shown as "MCC/07/CC/2904 (F-142)", whereas the similar identification no. appearing in the list of the selected candidate published in the newspaper on July 24, 2010 is shown as "MCC/07/CC/2904". The letters "(F-142)" appearing in the identification no. of the applicant Debashis Dhibar in call letter is absent from the similar identification no. appearing in the list of the selected candidates published on July 24, 2010. In this way, we have examined all the identification nos. appearing in the call letters of the applicants and the similar identification nos. appearing in the list of the selected candidates published in the newspaper on July 24, 2010 and found that the identification no. appearing in the call letter is not the same which is appearing in the list of the selected candidates published in the newspaper on July 24, 2010. Accordingly, we would like to give credence to the statement of the state respondents that the publication of list of selected candidates in the newspaper on July 24, 2010 was done by using secret official code no. of the said candidates wrongly and the same can by no means be construed as identification no. or roll nos. of the respective candidates appearing in the call letters as contended on behalf of the applicants. We would like to hold that the identification nos. appearing in the list of the selected candidates published in the newspaper on July 24 2010 is the official secret code no. and the same is not

the identification nos./roll nos. of the applicants appearing in the call letters. The first issue is, thus, decided against the applicants.

7. Now, we would like to decide the second issue namely whether the list of selected candidates published on August 12, 2010 is by way of clarification/corrigendum of the list published in the newspaper on July 24, 2010. The list of the selected candidates published in the newspaper on August 12, 2010 contains the names, father's name, the official secret code no. (wrongly shown as roll no. of the selected candidates in the newspaper on July 24, 2010) and roll nos./identification nos. of the selected candidates collected from their respective bio-data. We would like to rely on the table annexed to the supplementary reply by the state respondents as Annexure S-2 and S-3, wherefrom it appears that the marks obtained by the applicants in the interview and the marks obtained by the selected candidates in the interview are shown. The secret official code no. wrongly published and shown as roll no. of the selected candidates in the newspaper on July 24, 2010 is also described in one column of the said table which is annexed to the supplementary reply of the state respondents. It also appears from the said table that the concerned respondents maintained two separate registers for identification of the candidates – one register was maintained for the candidates who participated in the selection process by order of the court/Tribunal and another register for the candidates whose names were sponsored by the Employment Exchange. Some of the present applicants belonged to the first category and other applicants belonged to the second category. On perusal of the contents of the said two tables annexed to the supplementary reply, we find that the applicants did not get the requisite marks in the interview for being selected as successful candidates for getting appointment in Group-D post, whereas the candidates whose names were published initially by using secret official code no. (wrongly shown as roll nos. of the candidates in the newspaper published on July 24, 2010) and subsequently clarified in the list published in the newspaper on August 12, 2010, are eligible to get appointment in Group-D post. The applicants got the wrong impression of being selected by publication of official secret code no. which is similar to identification no. of the applicants appearing in the call letter though both are not same and identical. The second issue is also decided against the applicants.

8. In view of our above findings, we have no hesitation to hold that the applicants are not entitled to get any relief in the present application. The interim order, if any, stands vacated.

9. The original application is, thus, **dismissed**.

10. The **urgent xerox certified copy** of this judgment and order, if applied for by either of the parties, may be supplied on priority basis, on completion of all necessary formalities.

(Dr. Subesh Kumar Das)
MEMBER(A)

(Ranjit Kumar Bag)
MEMBER (J).