

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member.

Case No. –OA 244 of 2021

Biswajit Dey . - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicant	: None.
<u>14</u> 16.05.2024.	For the State Respondents	: Mr. G. P. Banerjee, Advocate.
	For the Public Service Commission, West Bengal	: Mr. S. Bhattacharjee, Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt. II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Submission of Mr. K. Ghosal, learned counsel for the applicant is that though the applicant was successful in the written test, however, he was not allowed to participate in the Physical Measurement and Endurance Test (PM&ET). Mr. Ghosal, refers to page 24 which appears to be a letter addressed to the applicant by the Commission and is dated 23.02.2021. In this letter, the Commission informs that the candidate / the applicant “did not appear for PM&ET on the given date i.e. 13.11.2019”. It appears that the Commission had uploaded this information in their website and SMS and e-mails were sent to respective candidates. Upon request of the applicant, the Commission arranged for one more date on 03.12.2020. But again on the second date also the applicant remained absent. Mr. Ghosal, however, contends that the applicant did not receive any SMS or e-mail. Mr. S. Bhattacharjee, learned counsel appearing for the Public Service Commission refers to para 9 of page 3 of reply which reiterates that this candidate had failed to appear.

The main issue to examine in this application is whether the

ORDER SHEET

Form No.

Biswajit Dey.

Case No. **OA 244 of 2021**

Vs.

The State of West Bengal & Others.

applicant was aware of the important dates connected to the recruitment process. By his own admission, the applicant has stated that he wanted to know from the Commission the date of his Physical Measurement and Endurance Test. The contention of the applicant is that since the Commission did not inform him the dates of the test, he could not appear for it. He had submitted two representations before the Commission but was not enlightened about the dates for the PM&ET. The Tribunal comes across a reference being no. 75 dated 23.02.2021 addressed to the learned counsel of the applicant. In this correspondence, the Commission informs that on the date fixed for PM&ET, the applicant was absent. However, another chance was given to him for his appearance on 03.12.2020. Unfortunately, on this second date also the applicant remained absent. It is an accepted fact that due to exigencies while some of the dates for testing the candidate may change and it is obligatory on the part of the recruitment body to notify such changes to the candidates, either through website or through SMS and e-mail. A notice dated 02.12.2020 appears to have been uploaded by the Commission in their website informing the candidates about the re-scheduled dates for PM&ET. It is rather strange that out of thousands of candidates participating only this candidate has failed to notice the date fixed by the Commission for PM&ET. Had there been laches on part of the Commission in not notifying the dates, a large number of candidates would have agitated, but in this particular exam for the post of Fire Operator, the Tribunal is aware of only this applicant having missed to appear on the date notified by the Commission. The Tribunal is also reluctant to believe that the Commission had failed to notify the candidate about the test. In today's world of internet and information technology, information in the website are not only dynamic but is also a

ORDER SHEET

Form No.

Biswajit Dey.

Case No. **OA 244 of 2021**

Vs.
The State of West Bengal & Others.

direct interface between the Commission and the candidates. It is rather bewildering and difficult to understand how this candidate failed to check the website of the Commission to the Tribunal.

The Commission had fulfilled its primary responsibility by such communication. It was the responsibility of the candidate himself to check the website for any updates. This fact was also mentioned in the advertisement of the Commission.

After hearing the submission of the learned counsels and examining the records, the impression gained by the Tribunal is that either by ignorance or due to any inexplicable reason, the candidate himself failed to appear for the PM&ET. The Tribunal does not find any latches or wilful, arbitrary and malice on part of the Commission to exclude this applicant from appearing for such Test. The Tribunal is satisfied that Commission fulfilled its obligation by notifying the dates not only in the website but also communicated to the applicant through SMS and e-mail.

Thus, having gone through the above observation, the Tribunal finds the prayers in this application devoid of any merit and is, therefore, disposed of without passing any orders.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A)

SM