

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Officiating Chairperson & Member (A)

Case No. – OA-73 of 2022

Serial No. and Date of order	Subhadip Roy For the Applicant	VERSUS – The State of West Bengal & Ors..	: Mr. G. Das, Mr. T. Chattopadhyay, Learned Advocate.
<u>07</u> 28.11.2022	For the State Respondents	:	Mrs. S. Agarwal, Learned Advocate.
	For the P.S.C., W.B.	:	Mr. Shaon Bhattacharya, Learned 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.

In this application the prayer is for setting aside the letter of the respondent authorities dated 10.12.2021 and directing them to offer an appointment in the post of Junior Engineer (Civil). Submission of learned counsel is that despite the disability certificate issued by the competent authority of Lalbagh S.D. Hospital, Murshidabad, the respondent has cancelled his candidature citing the applicant does not fulfil the requisite percentage of disability of 40% to avail the condition to the handicapped candidates.

The learned counsel also refers page 24 in which the respondent had asked the applicant to submit a certificate in

original, which were duly submitted.

The respondent had also asked him to appear before a Medical Board on 27.12.2019, in which the applicant duly appeared and was medically examined. Since the medical board did not have any ENT Specialist, the applicant was referred to one Dr. D. Mukherjee, an ENT Specialist; accordingly the applicant appeared before the Specialist on 14.01.2020.

Submission of learned counsel is that the diagnosis/medical report furnished by the said Dr. Mukherjee, a copy not being available with the applicant, was not considered by the respondent. As per the applicant he has sufficient reason to believe that Dr. Mukherjee after examining his disability has given a certificate certifying him to be more than 40 % disability.

However, despite an RTI query, the applicant was not provided the copy of the said Dr. Mukherjee's medical report to the applicant.

Mr. Shaon Bhattacharya appearing on behalf of the P.S.C. refers at part 5 of the reply in which it is mentioned that the applicant possesses 7% (seven percent) disability and thus not eligible to avail handicapped quota.

After hearing both the learned counsels, the Respondent

Subhadip Roy

Vs.

The State of West Bengal & Ors

No. 2, i.e. Secretary, Public Service Commission is directed to produce the original medical board certificate certifying the applicant to possess only 7% (seven percent) disability before the next date.

Let the matter be fixed for hearing on 14.02.2023.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

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