

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

Hon'ble Justice Soumitra Pal, Hon'ble Chairman &  
Hon'ble Dr. Subesh Kumar Das, Administrative Member.

**CASE NO. OA 940 of 2019.**

**PRITAM GHOSAL –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
<p style="text-align: center;">7</p> <hr/> <p>14.12.2020.</p>	<p>For the Applicant : Mrs. S. Mitra, Advocate.</p> <p>For the State Respondent No.1 : Mr. S.N. Ray, Advocate.</p> <p>For the P.S.C.W.B. : Mr. S. Bhattacharjee, Advocate.</p> <p style="text-align: center;">In this application Pritam Ghosal, the applicant, belonging to the unreserved category, has prayed for a direction upon the respondents to take steps for recommending him for the post of Krishi Prayukti Sahayak. It appears that the matter was admitted and directions were issued for filing reply and rejoinder. Reply and rejoinder have been filed and are on record.</p> <p style="text-align: center;">It appears that the applicant successfully qualified in the written examination. The applicant was not selected. The applicant filed an application for certain information under the Right to Information Act, 2005. It appears that the Public Service Commission, West Bengal intimated the applicant, being annexure "E" to the application that the applicant obtained 79.25 marks in part-I, 13 in Part-II and 5 in the interview. It further appears that the State of West Bengal by a letter dated</p>	

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	<p>18<sup>th</sup> September, 2019 addressed to the Joint Secretary, Public Service Commission, West Bengal, being annexure "F" to the application, intimated that the applicant belonging to unreserved category "<i>.....had secured an aggregate of 97.25 in the said examination and still could not find his name recommended, whereas a candidate with an aggregate of 95.20 was recommended by the PSC,WB and got appointment later on.....</i>". It appears from the said intimation that the report in detail was sought for.</p> <p>It appears from the advertisement that the total marks of written examination 150 marks (Part-I – 120 marks, Part-II-30 marks) and 15 were allotted for interview. It appears that the qualifying marks in Part-II for unreserved candidates was 10 marks and there was neither cut off marks in the written examination for part-I nor in the interview. It appears from the documents on record that the applicant had crossed the hurdle of the qualifying marks in part-II and he had obtained the necessary marks in part-I and in the interview having no cut off marks he had secured, as already noted, 5 marks. Relying on the documents on</p>	

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	<p>record Mrs. Mitra submits that as the applicant had unquestionably secured 97.25 marks, which is much more than the last successful candidate, appropriate order may be passed.</p> <p>Mr. S. Bhattacharjee, learned advocate for the Public Service Commission relying on the report and reply submits that as the West Bengal Public Service Commission made an announcement on 9<sup>th</sup> April, 2018 following the decision taken on the FC meeting dated 19<sup>th</sup> September, 2014 that the Commission had fixed 7 as qualifying marks for interview in the unreserved category, which was published in the newspaper and website before the interview, no order may be passed. Submission is as that knowing fully well the applicant had participated in the interview without any protest, no order be passed.</p> <p>Heard learned advocates for the parties.</p> <p>Admittedly, the applicant secured 79.25 marks in part-I and 13 in part-II. In part-II, the marks secured by the applicant was above the cut off marks. Since the qualifying marks in the interview was 7, the question is whether the applicant having secured 5 marks</p>	

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	<p>in interview should be disqualified, which was not mentioned in the 2016 advertisement published by the staff selection commission. In our view when an advertisement was issued fixing cut off marks for part-II of the written examination only, it was improper and illegal to fix cut off marks in the interview subsequently. Therefore, fixing of cut off marks for the interview subsequent to the part-I and part-II examination is arbitrary and illegal and cannot be sustained and is therefore set aside and quashed. Since the applicant has secured 97.25 marks, which is higher than the last candidate, who had secured 95.20, which is evident from the intimation by the Assistant Secretary to the Government of West Bengal to the Joint Secretary, Public Service Commission, West Bengal, the applicant is entitled to reliefs as prayed for. Therefore, let there be an order directing the Public Service Commission, West Bengal and its Secretary,- the respondent no. 2, to recommend the name of the applicant for the post of Krishi Prayukti Sahayak to the Secretary, Department of Agriculture, Government of West Bengal – the respondent no. 1 within eight weeks from the date of</p>	

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Skg.	<p>presentation of a copy of this order downloaded from the internet/website. After his name is recommended, the respondent no. 1 shall appoint him within eight weeks. The application is allowed.</p> <p>Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	