

Shraboni Sarkar
Pradip Kumar Roy
Advocate

Bar Association,
Room No.2
High Court, Calcutta
9831755800

Dated 4/9 2016

To
The A. J. P. Phader.
High Court Calcutta

Re : W.P. No. ^{S.T.} 84 (W) of 2016

Public Service Commission, W.B. & Ors

...Petitioners

-Versus-

State of West Bengal & Ors.

...Respondents

Dear Sirs,

Please find herewith the copy of the aforesaid writ petition which was filed on 3/8/16 before His Lordship Hon'ble Justice Nishita Mukherjee Hon'ble Justice Rakesh Tiwari

Please take further note that the matter will be Listed as LISTED MOTION on 12/8/16 and/or any subsequent date as and when the business of the Court permits.

You are requested to do the needful.

Encl : As above

Yours faithfully,

Shraboni Sarkar

Advocate

DISTRICT: 24 PARGANAS(SOUTH)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE.

W.P. S.T. No. 24 (W) of 2016

IN THE MATTER OF:

An application under Article 226 of the
Constitution of India ;

SUBJECT MATTER RELATING TO:

Under Group

Head of the Classification list

CAUSE TITLE

Public Service Commission, West
Bengal and Another

..... Petitioners

- Versus -

Amrita Sanyal

..... Respondent

Advocate-On-Record :

Shraboni Sarkar
Advocate
Bar Association, Room No. 2
High Court Calcutta

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Amrita Sanyal
~~Ashis Kumar Saha~~

..... Respondent

I N D E X

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LIST OF DATES

Sl. No.	DATE	CONTENTS
1.	July 2013	: West Bengal Legal Service (WBLs) Examination 2013 (advertise No. 7/13) advertisement declared in Public Service Commission website (PSC).
2.	17.02.2014	: Written Examination of WBLs Exam.
3.	15.12.2014	: Written result declared of WBLs Exam.
4.	26.12.2014	: Personality test of WBLs Exam.
5.	16.03.2015	: Final merit list / panel declared.
6.	20.03.2015	: PSC sent letter of recommendation.
7.	25.03.2015	: Law Department, W.B. sent letter of allotment.
8.	30.10.2015	Joining given effect to candidates appearing in panel from Sl. Nos. 1.to 13.
9.		: Original Application filed by the Applicant
10.	07.01.2016	: Reply filed by the Respondent PSC
11.	10.02.2016	: Order passed by the W.B. State Administrative Tribunal

III

POINTS OF LAW

1. Whether the impugned judgement and order is bad in law and is liable to be set aside?
2. Whether the impugned judgement and order suffers from non-application of judicial mind?
3. Whether while passing the impugned judgement and order the Hon'ble Members of the Tribunal failed to take into consideration the relevant and material facts of the case and proceeded on the basis of irrelevant considerations?
4. Whether the impugned judgement and order suffers from erroneous interpretation of law and also from mistaken impression of the factual back drop of the case?
5. Whether the impugned judgement and order is wholly unreasonable?
6. Whether in the impugned judgement the Learned Tribunal failed to consider that the Public Service Commission can fix up the cut-off marks in the recruitment of West Bengal Legal Services as per its decision taken by the full commission in its meeting?

IV

7. Whether by the impugned judgement the Petitioners can not claim to be prejudiced due to the fixation of the qualifying cut-off marks when the same was uniformly applied to all candidates?
8. Whether the system adopted for the selection of best candidates out of the total participating candidates are within the ambit and scope of the Independent Examining Body?
9. Whether the fixation of qualifying / cut off marks depend upon the examining body about having importance of the examination for which selection of candidates are concerned?
10. Whether the Selection of West Bengal Legal Service Examination, 2013 the intention of the Commission was to get more meritorious candidates among the participants which advanced the cause of efficiency?
11. Whether the order passed by the West Bengal State Administrative Tribunal is perverse and liable to be interfered and set aside?
12. Whether the applicant cannot ask for a relief against the petitioner which absolutely within the domain of the law

Department Government of West Bengal as such those prayer are misconceived and are not tenable in the eye of law?

13. Whether the Hon'ble Tribunal has over stepped its jurisdiction in cancelling the merit list which was prepared on the basis of the performance of the candidates and the policy adopted by the examining body for the selection of the best candidates out of the total candidates participated in the said selection as such the order of the Learned Tribunal is liable to be set aside?

DISTRICT - 24 PARGANAS (SOUTH)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Appellate Side

W.P. S.T. No. (W) of 2016

IN THE MATTER OF :

An application under Article 226 of
the Constitution of India;

AND

IN THE MATTER OF:

A writ in the nature of Mandamus
and/or certiorari and/or prohibition
and/or any other appropriate Writ or
Writs and/or order or orders and/or
direction or directions;

AND

IN THE MATTER OF :

Impugned order dated 10.02.2016
passed by the Division Bench

comprising of Hon'ble Justice A. Talukdar, Chairman and Hon'ble Mr. Samar Ghosh Member (A) of the West Bengal Administrative Tribunal in O.A. No. 413 of 2015 in the Amrita Sanyal versus State of West Bengal and Others.

AND

IN THE MATTER OF :

1. Public Service Commission, West Bengal, service through the Secretary, 161A, S.P., Mukherjee Road, Kolkata - 700026.

2. The Secretary, The Public Service Commission, West Bengal, 161A, S.P. Mukherjee Road, Kolkata - 700026

..... Petitioners

-Versus-

Amrita Sanyal, son of Amitabha
Sanyal, residing at 21/A, Priyanath
Road, Kanchrapara, 24 Parganas (N),
Police Station - Bijpur, Pin-743145.

..... Respondent

The State of West Bengal Service
through the Secretary, Law
Department, Legislative Bench,
having its office at Writers' Building,
'G'-Block, 4th Floor, Kolkata -
700001

..... Proforma Respondent

To,

The Hon'ble Mrs. Manjula Chellur, Chief Justice and Her
Companion Justices of the said Hon'ble Court.

The humble petition on behalf of
the abovenamed petitioners :

MOST RESPECTFULLY SHEWETH :-

1. That your petitioner Public Service Commission West Bengal is a constitutional Body created under Article 315 of the Constitution and derived its power relating to enunciate the methods and process of Recruitment under Article 320(3) of the Constitution, as and when the Government entrust on it by a requisition for such recruitment.
2. That your petitioner state that Government of west Bengal (Law Department) sent a requisition of Public Service Commission, West Bengal to select suitable candidates for 50 vacancies through West Bengal Legal Service (Recruitment Examination). Accordingly, Public Service Commission, West Bengal, published an Advertisement being No. 7/2013 for such Recruitment on 24.08.2013 mentioning therein that Examination will be held in two successive parts Written Examination (Part-I) and Personality Test (Part-II) and the requisite qualification of the candidates.

3. That the respondent No.1 filed an application before the West Bengal Administrative Tribunal at Calcutta against the petitioners challenging the purported acts and activities of the Public Service Commission, West Bengal, in conducting the selection process of the West Bengal Legal Services Examination 2013 for recruitment to the post of West Bengal Legal Service, under the Department of Law, Government of West Bengal wherein at the time of publishing advertisement they have decided that final merit list will be prepared on the basis of total marks obtained in all the written papers and in the personality test but surprisingly by introducing the mechanism cut-off marks subsequently after the selection process was over the said commission prepared and recommended the select list of 23 candidates for appointment to the said post solely on the basis of the cut off marks obtained by them in the personality test and thereby the applicant though otherwise eligible for recommendation and appointment to the post in question has been thrown out from the zone of consideration which are not only unjust, improper beyond the procedural norms, illegal, motivated and irregular

but also highly detrimental to the legitimate interest of the applicant on the following grounds :-

- I. For that the applicant had applied for the posts of Law Officers which was advertised by the Public Service Commission in its advertisement no.7 of 2013 by which the respondent Commission had decided to fill up a total number of 50 vacancies from the various grades including from the reserved category of candidates also. The applicant is a candidate from the unreserved category.
- II. For that in the said category examination there are two types of examination mentioned to get employment - (a) written examination and (b) personality test.
- III. For that the applicant had passed the respective written examinations and was called by the Commission for Personality Test. The applicant was called for the personality test on 23.12.2014.
- IV. For that on 16.3.2015 when the result of the examination was published, the name of the applicant was not found in the place of successful candidates.

After seeing the result, the applicant had decided to approach the office of the respondents asking for explanation as to why the applicant's name was left out when he had performed reasonably well in the written examination and the personality test and had expected to get a place in the list of selected candidates to get appointment for such post.

- V. For that the issue which brought the applicant before this Court is that, for the first time, a system has been introduced by the Commission in the 2013 examination is the qualifying marks at the Personality Test. The applicant was shocked to see that category wise cut off marks had been mentioned for 5 categories of candidates. The applicant falls within general category. The category wise panel was never introduced by the Commission in previous examinations which were conducted by the supervision of* the Commission even this system was not mentioned in the Commission website when the applicant applied for the posts. This had been introduced on a later part which was not known to the candidates.

- VI. For that in the West Bengal Judicial Service Examination 2014, Assistant Engineer (Civil) Recruitment Examination 2013, Assistant Public Prosecutor Recruitment Examination 2010, no where the Public Service Commission had introduced the category wise classification amongst the candidates and there was no qualifying marks mentioned in those examinations. Therefore the stand taken by the Commission in negating the approach of the applicant cannot be appreciated by any means.
- VII. For that in the advertisement, advertised by the Commission it has been specifically mentioned that the appointment of the applicant will be guided by the existing rules for recruitment to the post in West Bengal Legal Service. The so called Rule that has been mentioned in the advertisement being No. 7 / 2013 does not indicate any specific Rule which governs the field of Legal Service Examination. The so called Rule as mentioned by the Commission cannot act detrimental to the interest of the applicant and the applicant's case cannot be rejected on the strength of any Rule or

Guideline which had never been introduced by the Commission in any of its earlier examinations.

VIII. For that the basic proposition which compelled the applicant to approach this Court is that in any of the examination conducted earlier by the Commission this qualifying marks in the personality test was not found a place and in all the examinations (documents annexed as Annexure A-4) this very proposition of distribution of qualifying marks were never mentioned. Not only that in the earlier examinations also, the Commission had specified that the final merit list will be published and/or prepared on the basis of the total marks of 1000 in all the written examinations and in the personality test and the Commission will have discretion to fix qualifying marks in the aggregate.

IX. For that but in the present case no such thing had happened and on the basis of the marks obtained in the Personality Test the candidates had been disentitled from getting a place in the list of selected candidates for appointment. According to the applicant this mentioning

of cut off marks in the personality test warrants intervention as the cut off marks fixed in the interview test can encourage nepotism to favour candidates according to the sweet will of the examiners. The applicant's contention of showing nepotism by the respondents to some of the candidates has found place as one of the candidate Sri Jay Banerjee (Roll No. 1477) got 368 marks in the written examination, though in the subjective category he got only 7.5 marks in English subject. In spite of such, he has been shown as pass in the said subject.

- X. For that (a) Arindam Chakraborty (Roll No. 1642) (b) Amit Chakraborty (Roll No. 1602) (c) Sunita Sana (Roll No.981) (d) Sasanka Kumar Nag (Roll No.237) (e) Satarupa Roy (Roll No. 1698) (f) Nabanita Nandi (Roll No.587) (g) Bhigu Biswakarma (Roll No. 1799) and (h) Nilanjana Bandyopadhyay (Roll No.660) had qualified in the West Bengal Legal Service Examination 2013 as well as in the Judicial Examination also. According to the applicant all these abovementioned candidates had

shown their willingness to join the Judicial Service and during this period, the process of police verification and the Medical Examination had already been completed.

XI. For that at present, because of the shifting of 8 candidates from West Bengal Legal Service List to The West Bengal Judicial Service List, there is absolute chance for the applicant to place their position in the list of selected candidates as the applicant got 433.5 marks in total and it creates a job opportunity to the applicant to get employment in the post of West Bengal Legal Service.

XII. For that the applicant had approached the High Court at Calcutta in presenting a writ petition being W.P. 8169 (W) of 2015. The said writ petition was taken up for hearing on 16.04.2015 by the Hon'ble Justice Sanjib Banerjee and as the Hon'ble Court found the grievance of the applicant cannot be meet up in the High Court at Calcutta, the court directed the applicant to approach

the Tribunal individually for redressal of their grievances.

XIII. For that the act and action of the respondent Commission warrants intervention of this Court as the advertisement, 2013 does not mention granting qualifying marks in the Personality Test of the Legal Service Examination. Such being the position the applicant seek this court's intervention in getting a relief in the abovementioned issue. On one hand the Commission is mentioning to hold the Legal Service Examination according to the existing Rules for such recruitment, On the other hand is acting contrary to the interest of the applicant

4. The applicant sought for the following reliefs.

Ad interim order of stay to be granted directing the Commission to keep one reserved vacancy vacant, till the disposal of the application.

5. That the said Tribunal admitted the said application and was pleased to direct the respondent/petitioner and other respondent to file their reply and the petitioner was directed to file rejoinder.

Xerox copy of the original application and reply filed by both the applicants and the respondents are annexed and marked collectively letter "P-1".

6. That the said matter was finally heard on 10.02.2016 and the Division Bench of the West Bengal State administrative Tribunal passed an impugned order with the following direction :

- I. Apart from the fact that we are of the view that the approach of the PSC, WB is not acceptable as it had changed the rule of the game in the midway and also deviated from the provision of the Recruitment rules, we find the State had taken a specific stand which we have discussed earlier that the PSC, WB has exceeded its brief keeping the State in the dark about the introduction of cut off marks in the Personality Test.

- II. In all, in the light of the discussion held by us, we feel that the basis adopted by the RSC, WB while preparing the list of candidates recommended for appointment to the West Bengal Legal Service on the basis of WBLSE, 2013 suffers from serious discrepancy and is thus amenable to judicial review. In the event the same is not corrected, it will result in a travesty of justice.
- III. Accordingly, we dispose of these batches of Applications by directing the PSC, WB to recast the selected panel on the basis of which recommendation has been made to the WBLSE, 2013. The PSC, WB, while recasting the panel will strictly adhere to the tenor of the Original Advertisement as well as the provision of West Bengal Legal Service (Recruitment) Rules, 2007 and not take into account the cut-off for the Personality Test as introduced by them in their wisdom midway of the Examination. The panel after being recast in terms of this order will be sent to the State Government within six weeks.

7. That your petitioner states that Public Service Commission, West Bengal being the Recruitment Authority prescribed the modalities for conducting such selection. Accordingly prescribed cut-off marks were introduced in the said examination to select the best deserving candidates.

8. That your petitioner states that the cut-off marks pertaining to personality test was imposed by a resolution of Full Commission meeting dated 19.09.2014 long before the date of holding personality test i.e. (22.12.2014 to 26.12.2014) and before finalization of result in the written examination which has been done by Public Service Commission within its competency being Selecting Authority. Apart from that Law Department published scheme and syllabus regarding method/procedure of the said examination and information regarding cut-off marks. In aggregate the modalities and procedure adopted by Public Service Commission in conducting the said examination was in conformity with prescribed recruitment rules promulgated by government without any departure.

The Xerox copy of the said scheme and syllabus and the minutes of Full Commission meeting are annexed herewith and marked collectively letter - 'P-2'

9. That your petitioner states that the decision to the effect, that what should be the pass mark or cut-off marks in respective examination is the exclusive jurisdiction of the Authority concern who is conducting the said examination for selection. The publication of cut-off marks or pass mark in advertisement is not a sound proposition of law.
10. That your petitioner states that the Public Service Commission is the Selecting Authority as such imposition or decision of cut-off marks or qualifying marks in the said selection process is absolutely within the domain of Public Service Commission. Public Service Commission has exercised its discretion for fair selection of most suitable and deserving candidates as has been done indiscriminately.
11. That your petitioner states that in the "Scheme and Syllabus" (not in Advertisement) it was mentioned that final merit list will be prepared on the basis of total marks obtained in the

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written test and in the personality test as has been done in the said recruitment process because merit list was prepared on the basis of total marks secured in written test and personality test of those both the test to ensure fair selection from among the contesting candidates. Candidates must secure qualifying marks in both the examination (Part-I and Part-II) otherwise He/she is not eligible to be enlisted in merit list whatever marks secured in viva-voce test. So merit list was prepared aggregating the marks obtained in the viva-voce only to those candidate who secured qualifying marks in Part-II examination.

12. That your petitioner states that the Hon'ble Division Bench of the West Bengal State Administrative Tribunal after admitting the Original Application was pleased to direct the respondent and the petitioner to file reply and rejoinder for the proper adjudication of the said original application. The petitioner further states that they filed their reply to the original application and the petitioner also filed their rejoinder.
13. That your petitioner states that the Hon'ble Tribunal took up the said original application with other 11 applicants where

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the grievances and the relief are totally different and have no nexus the issue involved in their present original application

14. That your petitioners state that in the West Bengal legal Service Examination, 2013, 606 candidates appeared in the written test and the highest marks obtained by the candidate in written test is 486.5 and the lowest marks obtained by the candidate in the written test is 261.5 and the interview was called for from the candidates who secured 261.5 marks.
15. That your petitioners state that total 92 candidates were called for to appear in the interview/personality test where 2 candidates remain absent. Out of 90 candidates highest marks obtained in personality test is 56 and lowest marks obtained in the said test only 15.
16. That your petitioners states that the highest marks obtained by the candidate in both written and personality test is 513 and the lowest marks obtained 289.5 and on the basis of qualifying marks obtained both written and personality test 20 candidates were selected in the general standard merit list and

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3 candidates were selected in the reserved standard merit for ST Candidates.

17. That your Petitioner states that the Hon'ble Division Bench of the West Bengal Administrative Tribunal was totally misdirected in taking up all the matters analogues and passed a common order with some costic and unwarranted remark against the examining body causing a serious prejudice to the high esteem in the eyes of public at large.
18. That your petitioner state that by the common order the Division Bench of the Hon'ble Tribunal dispose of the batches of applications by directing the Public Service Commission West Bengal to recast the selected panel on the basis of which recommendation has been made to W.B.L.S.R. 2013 and the Hon'ble Member is further pleased to direct the petitioner that while re-casting the panel will strictly adhere to the tenor of the original advertisement as well as the provision of West Bengal Legal Service (Recruitment) rules, 2007 and not taking account the cut-off marks in the personality test as introduced by them in their wisdom midway of the examination and the

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panel after being recast in terms of the said order will be sent to the state Government within 6 weeks.

19. That your petitioner state that the Division Bench of the Ld. Tribunal was totally wrong in taking the batches of applications without verifying the cause of action the finding of the Learned Tribunal is perverse and totally non application of mind and as such the said order of the Learned Tribunal is not sustainable in the eye of law and is thus liable to be set aside.
20. That your petitioner states that the Learned Tribunal was in error in deciding the issue whether the examining body has the right to fix qualifying / cut-off marks in the selection of candidates in recruitment process for the post of West Bengal Service ignoring the settled law in the field as enunciated by the Apex Court and Hon'ble High Court as such the said order of the Learned Tribunal is unwarranted and liable to be interfered with by this Hon'ble Court.
21. That your petitioner states that it was categorically mentioned in the said "Scheme and Syllabus" that Public Service Commission, West Bengal shall have the diserection to fix

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qualifying marks in the aggregate. Such procedure has been adopted to all the examine indiscriminately without any favour. It is the admitted fact that the resolution of full commission meeting dated 19.09.2014 of Public Service Commission pertaining to cut-off marks, was not challenged in any of the application not prayed for quashing of the said resolution.

22. That your petitioner state that the applicant in the said original application are unsuccessful candidates, Having participated in the selection process without any demur or objection and being unsuccessful they have no right to challenge the said selection process in view of the decisions of the Hon'ble Apex Court.
23. That your petitioner states that the Hon'ble Apex Court widely discussed about the power of imposition and decision of cut-off marks by the Public Service Commission in the case of Yogesh Yadav vs. Union of India and others in Civil Appeal No. 6799/2013 arising out of S.L.P.(Civil) No. 34427/2011. Whereby and whereunder the Hon'ble Apex Court clearly expressed its observation as follows :

"In the case at hand, as we perceive, the intention of the Commission was to get more meritorious candidates. There has been no change of norm or procedure. No mandate was fixed that a candidate should secure minimum marks in the interview. Obtaining of 65% marks was thought as a guidelines for selecting the candidate from the OBC category. The objective is to have best hands in the field of law. According to us fixation of such marks is legitimate and gives a demarcating choice to the employer. It has to be borne in mind that the recruitment of the job in a Competition Commission demands a well structured selection process. Such a selection would advance the cause of efficiency. Thus scrutinized, we do not perceive any error in the fixation of marks at 65% by the Commission which has been uniformly applied. The said action of the Commission cannot be treated to be illegal, irrational or illegitimate."

24. That your petitioner states that in another judgement of Banking Service Recruitment Board, Madras versus V.

Ramalingan and Others cited in (1998) 8 SCC 523 The Hon'ble Apex Court held that "The cut-off marks fixed will depend upon the examining body's view of the importance of the subject for the post in question. It may well fix higher cut-off marks for subjects which may have greater relevance than other subjects which may have relevance but not to the same extent. Basically, it is for the examining body to fix cut-off marks. The examination was conducted by the appellants but by another independent body namely, the National Institute of Bank Management and cut-off marks were also fixed by it. From the list of the qualified candidates submitted by the National Institute of Bank Management, the appellants invited candidates ranking high in the merit list for interview and selection thereafter. The marks in the examination and the marks in the interview had been awarded by different independent bodies and the system which was adopted cannot be considered as unfair or arbitrary or even irregular. The High Court cannot substitute its own method of selection for the method which was adopted by the organisations entrusted with the task of selection".

25. That your petitioner states that upon prolong hearing of both the parties the Hon'ble Tribunal passed the impugned order in a perverse manner without considering the stand of the petitioner.
26. Being aggrieved by and dissatisfied with the impugned order dated 10.02.2016 passed by the Learned Tribunal, the petitioner beg to move this writ application on the followings amongst other

GROUNDS

- I. For that the impugned judgement and order is bad in law and is liable to be set aside.
- II. For that the impugned judgement and order is based on non-application of judicial mind.
- III. For that while passing the impugned judgement and order the Hon'ble Members of the Tribunal failed to take into consideration the relevant and material facts of the case and proceeded on the basis of irrelevant considerations.

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- IV. For that the impugned judgement and order suffers from erroneous interpretation of law and also from mistaken impression of the factual back drop of the case.
- V. For that the impugned judgement and order is wholly unreasonable.
- VI. For that in the impugned judgement the Learned Tribunal failed to consider that the Public Service Commission can fix up the cut-off marks in the recruitment of West Bengal Legal Services as per its decision taken by the full commission in its meeting.
- VII. For that by the impugned judgement the Petitioners can not claim to be prejudiced due to the fixation of the qualifying cut-off marks when the same was uniformly applied to all candidates.
- VIII. For that the system adopted for the selection of best candidates out of the total participating candidates are within the ambit and scope of the independent Examining Body.

- IX. For that the fixation of qualifying / cut off marks depend upon the examining body about having importance of the examination for which selection of candidates are concerned.
- X. For that the Selection of West Bengal Legal Service Examination, 2013 the intention of the Commission was to get more meritorious candidates among the participants which advanced the cause of efficiency.
- XI. For that the order passed by the West Bengal State Administrative Tribunal is perverse and liable to be interfered and set aside.
- XII. For that the applicant cannot ask for a relief against the petitioner which absolutely the donein of the law Department Government of West Bengal as such those prayer are misconceived and are not tenable in the eye of law.
- XIII. For that the Hon'ble Tribunal has over stepped its jurisdiction in cancelling the merit list which was prepared on the basis of the performance of the

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candidates and the policy adopted by the examining body for the selection of the best candidates out of the total candidates participated in the said selection as such the order of the Learned Tribunal is liable to be set aside.

27. That the petitioner submits that the commission has not filed any other writ petition or any other application in any court of law in the self same cause of action.
28. That the records relating to this case are lying with respondent which are within the appellate side jurisdiction of this Hon'ble Court.
29. That the petitioner is made bonafide for the ends of justice.

In the above circumstances your petitioner humble prays before Your Lordship would graciously be please to issue :

- a. A order do issue calling upon the respondent as to why the impugned order dated 10.02.2016 passed by the Learned West

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Bengal Administrative Tribunal in
No. 413 of 2015 in the matter of
Ananta Dasgupta vs. State of West
Bengal and Others be set-aside.

b. A Writ in the nature of certiorari
calling upon the respondent to
certify and transmit the relevant
records relating to this case
before this Hon'ble Court so that
the conscionable justices may be
rendered by them by quashing the
impugned order dated 10.02.2016
passed by the Principal Bench
West Bengal Administrative
Tribunal in O.A. No. 413/2015.

c. An interim order staying the
operation of the order dated
10.02.2016 passed by the Learned
West Bengal Administrative
Tribunal.

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- d. A Rule NISI in terms of the prayer made above and after hearing the parties make the rules absolute.
- e. Cost and incidental of this case.
- f. Any other order or orders and / or direction or directions and / or any other writ or writs as your Lordships may seen fit and proper.

And for this act of kindness your petitioner is in duty bound shall ever pray.

I certify that _____
being the Deputy Secretary of
Public Service Commission, West
Bengal is duly authorized by the
Petitioner No. 1 & 2 to sign this
application

Advocate

AFFIDAVIT

I, Samir Kumar Bandopadhyay, son of Late Gopal Chandra Bandopadhyay, aged about 59 years, by faith - Hindu, by occupation - Service, working for gain in the office of the Petitioner No.1 as Deputy Secretary, residing at 259, Railpark, Rishra, Morepukur, Hooghly, Pin-712250, do hereby solemnly affirmed and say as follows :-

1. That I am the Deputy Secretary of Petitioner No. 1 and authorized representative of petitioner No. 1 & 2 in the instant writ petition as such I am well conversant with the facts and circumstances of the case.

2. That the statements made in paragraph nos. 1 to 25 are true to my knowledge and rest are my respectful submissions before this Hon'ble Court.

Prepared in my Office

sg/- Shrabani Sanyal
Advocate

Deponent is known to me

sg/- A.K.S.
Clerk to :

Advocate

Solemnly affirmed before me, on

this the 28th day of April, 2016.

All annexures are legible

Advocate

Commissioner

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IN THE WEST BENGAL STATE ADMINISTRATIVE TRIBUNAL,
 CALCUTTA, AT BIKASH BHAWAN, SALT LAKE CITY,
 KOLKATA-700091
 O.A. NO. 413 OF 2015

For the use in Tribunal Office :

Date of filing :

Or

Date of receipt by post :

Registration :

SIGNATURE OF THE REGISTRAR

IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL

BETWEEN

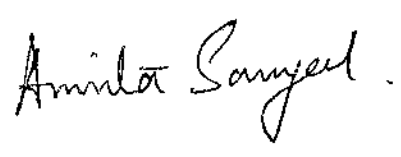
 Amrita Sanyal

..... APPLICANT

-VERSUS-

The Public Service Commission, West Bengal &
Ors.

..... RESPONDENTS



IN THE WEST BENGAL STATE ADMINISTRATIVE TRIBUNAL,
CALCUTTA, AT BIKASH BHAWAN, SALT LAKE CITY,
KOLKATA-700091

O.A. NO. 413 OF 2015

CAUSE TITLE
Amrita Sanyal

..... APPLICANT

-VERSUS-

The Public Service Commission, West
Bengal & Ors.

..... RESPONDENTS

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Signature of the Learned Advocate
of the applicant.

Amrita Sanyal
Signature of the applicant

DETAILS OF THE APPLICATION

1. Particulars of the applicant
- Name, father's name and designation of the applicant. : Amrita Sanyal daughter of Amitava Sanyal, residing at 21/A, Priya Nath Road, Kanchrapara, 24-Parganas (N), P.S. Bijpur, PIN-743145.
2. Particulars of the Respondents' name, designation and address of the respondents. :
1. The Public Service Commission, West Bengal, service through the Secretary, 161A, S.P. Mukherjee Road, Kolkata-700026.
 2. The Secretary, The Public Service Commission, West Bengal, 161A, S.P. Mukherjee Road, Kolkata-700026.
 3. The Law Department,

Amrita Sanyal

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The State of West Bengal,
office at Writers' Buildings,
Kolkata-700001.

4. The Secretary,
Department of Law, Govt. of
West Bengal, Writers'
Buildings, Kolkata-700001.

3. Particulars of the order against which this application is made. : Inaction on the part of the respondent authorities in preparing the qualifying marks at the personality test in West Bengal Legal Service Examination, 2013 inspite of the fact that such classification had never occurred in past examinations and in the other examinations conducted by the Public Service Commission in the year 2013

Amrita Sanyal

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excepting the case of the petitioners no where qualifying marks at the personality test had been introduced to negate the qualified candidates from getting their jobs as Legal Officers.

4. Jurisdiction of the Tribunal : The applicant declares that the subject matter of challenging in the instant application against which he wants redressal is within the jurisdiction of this Learned Administrative Tribunal.

5. Limitation : The applicant further declares that the instant application is within the prescribed period of limitation in section 21 of the Administrative Tribunal

Amita Sanyal.

Act, 1985.

6. Facts of the Case :

- (a) Your applicant is a peace loving citizen of India and residents of the addresses given in the cause title.
- (b) The applicant had applied for the posts of Law Officers which was advertised by the Public Service Commission in its advertisement no.7 of 2013 by which the respondent Commission had decided to fill up a total number of 50 vacancies from the various grades including from the reserved category of candidates also. The applicant is a candidate from the unreserved category.

In this connection the Xerox copy of the advertisement is annexed hereto and marked as Annexure "A-1".

- (c) In the said category examination there are two types of examination mentioned to get employment - (a) written examination and (b) personality test.

Amrita Sanyal

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- (d) The applicant had passed the respective written examinations and was called by the Commission for Personality Test. The applicant was called for the personality test on 23.12.2014.

In this connection the Xerox copies of the call letter is annexed hereto and marked as Annexure "A-2".

- (e) The applicant was surprised to find that on 16.3.2015 when the result of the examination was published, the name of the applicant was not found in the place of successful candidates. After seeing the result, the applicant had decided to approach the office of the respondents asking for explanation as to why the applicant's name was left out when he had performed reasonably well in the written examination and the personality test and had expected to get a place in the list of selected candidates to get appointment for such post.

In this connection the Xerox copy of the selected list of the candidates for the post of Law Officers, 2013 is annexed hereto and marked as Annexure "A-3".

Anvita Sanyal

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- (f) The issue which brought the applicant before this Court is that, for the first time, a system has been introduced by the Commission in the 2013 examination is the qualifying marks at the Personality Test. The applicant was shocked to see that category wise cut off marks had been mentioned for 5 categories of candidates. The applicant falls within general category. The category wise panel was never introduced by the Commission in previous examinations which were conducted by the supervision of the Commission even this system was not mentioned in the Commission website when the applicant applied for the posts. This had been introduced on a later part which was not known to the candidates.
- (g) It is the case of the applicant that in the West Bengal Judicial Service Examination 2014, Assistant Engineer (Civil) Recruitment Examination 2013, Assistant Public Prosecutor Recruitment Examination 2010, no where the Public Service Commission had introduced the category wise classification amongst the candidates and there was no qualifying marks mentioned in those examinations. Therefore the stand taken by the Commission in negating

Amrita Sanyal

the approach of the applicant cannot be appreciated by any means.

In this connection the Xerox copy of the Legal Service Examination 2013 is annexed hereto and marked as Annexure "A-4".

- (h) It is the case of the applicant that in the advertisement, advertised by the Commission it has been specifically mentioned that the appointment of the applicant will be guided by the existing rules for recruitment to the post in West Bengal Legal Service. The so called Rule that has been mentioned in the advertisement being No.7 / 2013 does not indicate any specific Rule which governs the field of Legal Service Examination. The so called Rule as mentioned by the Commission cannot act detrimental to the interest of the applicant and the applicant's case cannot be rejected on the strength of any Rule or Guideline which had never been introduced by the Commission in any of its earlier examinations.
- (i) The basic proposition which compelled the applicant to approach this Court is that in any of the examination

Amrita Sanjayal

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conducted earlier by the Commission this qualifying marks in the personality test was not found a place and in all the examinations (documents annexed as Annexure A-4) this very proposition of distribution of qualifying marks were never mentioned. Not only that in the earlier examinations also, the Commission had specified that the final merit list will be published and/or prepared on the basis of the total marks of 100 in all the written examinations and in the personality test and the Commission will have discretion to fix qualifying marks in the aggregate.

But in the present case no such thing had happened and on the basis of the marks obtained in the Personality Test the candidates had been disentitled from getting a place in the list of selected candidates for appointment. According to the applicant this mentioning of cut off marks in the personality test warrants intervention as the cut off marks fixed in the interview test can encourage nepotism to favour candidates according to the sweet will of the examiners. The applicant's contention of showing nepotism by the respondents to some of the candidates has found place as one of the candidate Sri Jay Banerjee (Roll No.1477) got 368 marks in the written

Amrita Samyakt

examination, though in the subjective category he got only 7.5 marks in English subject. In spite of such, he has been shown as pass in the said subject.

- (j) It is the case of the applicant that (a) Arindam Chakraborty (Roll No.1642) (b) Amit Chakraborty (Roll No.1602) (c) Sunita Saha (Roll No.981) (d) Sasanka Kumar Nag (Roll No.237) (e) Satarupa Roy (Roll No.1698) (f) Nabanita Nandi (Roll No.587) (g) Bhigu Biswakarma (Roll No.1799) and (h) Nilanjana Bandyopadhyay (Roll No.660) had qualified in the West Bengal Legal Service Examination 2013 as well as in the Judicial Examination also. According to the applicant all these abovementioned candidates had shown their willingness to join the Judicial Service and during this period, the process of police verification and the Medical Examination had already been completed.

- (k) At present, because of the shifting of 8 candidates from West Bengal Legal Service List to The West Bengal Judicial Service List, there is absolute chance for the applicant to place their position in the list of selected candidates as the applicant got 433.5 marks in total and it creates a job opportunity to the

Amita Sanyal

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applicant to get employment in the post of West Bengal Legal Service.

- (l) The applicant had approached the High Court at Calcutta in presenting a writ petition being W.P. 8169 (W) of 2015. The said writ petition was taken up for hearing on 16.04.2015 by the Hon'ble Justice Sanjib Banerjee and as the Hon'ble Court found the grievance of the applicant cannot be meet up in the High Court at Calcutta, the court directed the applicant to approach the Tribunal individually for redressal of their grievances.

In this connection the applicant crave leave before this Hon'ble Court to place the copy of the order passed in the abovementioned matter at the time of hearing, if necessary.

- (m) The act and action of the respondent Commission warrants intervention of this Court as the advertisement, 2013 does not mention granting qualifying marks in the Personality Test of the Legal Service Examination. Such being the position the applicant seek this court's intervention in getting a relief in the abovementioned issue. On one hand

Amrita Sanyal

the Commission is mentioning to hold the Legal Service Examination according to the existing Rules for such recruitment, On the other hand is acting contrary to the interest of the applicant.

7. Relief sought for :-

In view of the facts and circumstances mentioned in the paragraph 6, your applicant prays for the following relieves:-

a) An order do issue :-

(i) By directing the respondent Commission to recast the panel prepared by the Commission on the basis of the marks obtained by the candidates in their written and Viva-voice examination and not on the basis of the qualifying marks obtained in the personality test for the posts of under the West Bengal Legal Service.

(ii) By directing the respondent Commission to select the applicant's name in the list of selected candidates if upon summarizing the marks of the applicant obtained in the written examination and the personality test, it

Ananta Sanyal

is found that the applicant can be accommodated in the vacant posts under the West Bengal Legal Service.

(iii) Such further or other order or orders be passed and/or direction or directions be given as may deem fit and proper to this Hon'ble Court.

The above reliefs are being sought for on the following amongst others :-

GROUND S

- I. For that the applicant had applied for the posts of Law Officers which was advertised by the Public Service Commission in its advertisement no.7 of 2013 by which the respondent Commission had decided to fill up a total number of 50 vacancies from the various grades including from the reserved category of candidates also. The applicant is a candidate from the unreserved category.
- II. For that in the said category examination there are two types of examination mentioned to get employment - (a) written examination and (b) personality test.

Amrita Sanyal.

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- III. For that the applicant had passed the respective written examinations and was called by the Commission for Personality Test. The applicant was called for the personality test on 23.12.2014.

- IV. For that on 16.3.2015 when the result of the examination was published, the name of the applicant was not found in the place of successful candidates. After seeing the result, the applicant had decided to approach the office of the respondents asking for explanation as to why the applicant's name was left out when he had performed reasonably well in the written examination and the personality test and had expected to get a place in the list of selected candidates to get appointment for such post.

- V. For that the issue which brought the applicant before this Court is that, for the first time, a system has been introduced by the Commission in the 2013 examination is the qualifying marks at the Personality Test. The applicant was shocked to see that category wise cut off marks had been mentioned for 5 categories of candidates. The applicant falls within general category. The category wise panel was

Amrita Samyad

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never introduced by the Commission in previous examinations which were conducted by the supervision of the Commission even this system was not mentioned in the Commission website when the applicant applied for the posts. This had been introduced on a later part which was not known to the candidates.

VI. For that in the West Bengal Judicial Service Examination 2014, Assistant Engineer (Civil) Recruitment Examination 2013, Assistant Public Prosecutor Recruitment Examination 2010, no where the Public Service Commission had introduced the category wise classification amongst the candidates and there was no qualifying marks mentioned in those examinations. Therefore the stand taken by the Commission in negating the approach of the applicant cannot be appreciated by any means.

VII. For that in the advertisement, advertised by the Commission it has been specifically mentioned that the appointment of the applicant will be guided by the existing rules for recruitment to the post in West Bengal Legal Service. The so called Rule that has been mentioned in the advertisement

Amita Sanyal

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being No.7 / 2013 does not indicate any specific Rule which governs the field of Legal Service Examination. The so called Rule as mentioned by the Commission cannot act detrimental to the interest of the applicant and the applicant's case cannot be rejected on the strength of any Rule or Guideline which had never been introduced by the Commission in any of its earlier examinations.

VIII. For that the basic proposition which compelled the applicant to approach this Court is that in any of the examination conducted earlier by the Commission this qualifying marks in the personality test was not found a place and in all the examinations (documents annexed as Annexure A-4) this very proposition of distribution of qualifying marks were never mentioned. Not only that in the earlier examinations also, the Commission had specified that the final merit list will be published and/or prepared on the basis of the total marks of ~~1000~~ in all the written examinations and in the personality test and the Commission will have discretion to fix qualifying marks in the aggregate.

IX. For that but in the present case no such thing had happened and on the basis of the marks obtained in the

Anurag Sanyal

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Personality Test the candidates had been disentitled from getting a place in the list of selected candidates for appointment. According to the applicant this mentioning of cut off marks in the personality test warrants intervention as the cut off marks fixed in the interview test can encourage nepotism to favour candidates according to the sweet will of the examiners. The applicant's contention of showing nepotism by the respondents to some of the candidates has found place as one of the candidate Sri Jay Banerjee (Roll No.1477) got 368 marks in the written examination, though in the subjective category he got only 7.5 marks in English subject. In spite of such, he has been shown as pass in the said subject.

- X. For that (a) Arindam Chakraborty (Roll No.1642) (b) Amit Chakraborty (Roll No.1602) (c) Sunita Saha (Roll No.981) (d) Sasanka Kumar Nag (Roll No.237) (e) Satarupa Roy (Roll No.1698) (f) Nabanita Nandi (Roll No.587) (g) Bhigu Biswakarma (Roll No.1799) and (h) Nilanjana Bandyopadhyay (Roll No.660) had qualified in the West Bengal Legal Service Examination 2013 as well as in the Judicial Examination also. According to the applicant all

Amita Sanyal

these abovementioned candidates had shown their willingness to join the Judicial Service and during this period, the process of police verification and the Medical Examination had already been completed.

- XI. For that at present, because of the shifting of 8 candidates from West Bengal Legal Service List to The West Bengal Judicial Service List, there is absolute chance for the applicant to place their position in the list of selected candidates as the applicant got 433.5 marks in total and it creates a job opportunity to the applicant to get employment in the post of West Bengal Legal Service.
- XII. For that the applicant had approached the High Court at Calcutta in presenting a writ petition being W.P. 8169 (W) of 2015. The said writ petition was taken up for hearing on 16.04.2015 by the Hon'ble Justice Sanjib Banerjee and as the Hon'ble Court found the grievance of the applicant cannot be meet up in the High Court at Calcutta, the court directed the applicant to approach the Tribunal individually for redressal of their grievances.

Amita Sanjal

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XIII. For that the act and action of the respondent Commission warrants intervention of this Court as the advertisement, 2013 does not mention granting qualifying marks in the Personality Test of the Legal Service Examination. Such being the position the applicant seek this court's intervention in getting a relief in the abovementioned issue. On one hand the Commission is mentioning to hold the Legal Service Examination according to the existing Rules for such recruitment, On the other hand is acting contrary to the interest of the applicant.

8. Interim order prayed for :

Ad interim order of stay to be granted directing the Commission to keep one general vacancy, vacant till the disposal of the application.

9. Details of the remedies exhausted :-

That the applicant has exhausted all the remedies before advancing his claim in this Tribunal.

10. The matter notified in any other court :-

That the applicant further declares that he has not filed any other application in any court of law on the self same cause of action.

Amita Sanyal

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11. Details of Index :

An Index containing the details of the documents to be relied upon is given on the front page of this application.

12. List of Enclosures :

A-1 to A-4.

Amrita Sanyal.

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VERIFICATION

I, Amrita Sanyal daughter of Amitava Sanyal, residing at 21/A, Priya Nath Road, Kanchrapara, 24-Parganas (N), P.S. Bijpur, PIN-743145, do hereby verify on behalf of myself and declare that the contents of paragraphs are true to my knowledge and belief and I have not suppressed any material facts.

Place : Calcutta

Date - 24/9/15

Prepared in my office and the applicant signed the application in my presence at my Chamber.

Mr. Jayanta Das
CA (Mr. Anjan Bhattacharya)
Advocate

Amrita Sanyal
Signature of the applicant

PUBLIC SERVICE COMMISSION, WEST BENGAL
WEST BENGAL LEGAL SERVICE EXAMINATION, 2013
ADVERTISEMENT NO.07/2013
INFORMATION TO CANDIDATES

Annexure

A-1

The Public Service Commission, West Bengal will hold the West Bengal Legal Service Examination, 2013 in accordance with the existing rules for recruitment to the posts in West Bengal Legal Service. The rules of the examination and other particulars are stated in the following paragraphs. A candidate should verify from the notified rules that he/she is eligible for admission to the examination. The conditions prescribed cannot be relaxed.

The Examination will be held in two successive parts, viz., (I) Written Examination (Part - I) and (II) Personality Test (Part - II).

The Written Examination will be held in Kolkata centre only in December, 2013 or thereabout followed by the Personality Test. The Personality Test of the candidates to be selected on the results of the written examination will be held at the Commission's office in Kolkata.

PAY : (PB-4A) Rs.15,600-42,000/- + Grade Pay of Rs.5,400/- besides D.A., M.A. & H.R.A. admissible as per rules.

NO. OF VACANCY : 50 [Unreserved - 23, SC - 10, ST - 06, BC(Category-A) - 05, BC(Category-B) - 03 and PH - 03 (Low Vision-01 & Hearing Impaired-02)]

N.B. : (i) All appointments will initially be made on a temporary basis.

(ii) In terms of notification bearing No.861-L dated 21st June, 2007 issued by the Law Department, Govt. of West Bengal, the persons or class of persons suffering from blindness and cerebral palsy are exempted from the purview of reservation in terms of proviso to Sec. 33 of the persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996). Candidates with low vision will be allowed the help of Scribe, if required.

QUALIFICATION : (i) A citizen of India or such a person of other nationality as declared eligible by Government of India.
(ii) A degree in Law from a recognized University.
(iii) Ability to read, write and speak in Bengali (not required in the case of Nepali speaking candidates of the three Hill Sub-divisions of Darjeeling District, viz., Darjeeling Sadar, Kalimpong and Kurseong).

AGE : Not less than 23 years and not more than 35 years on 01.01.2013 (i.e. born not earlier than the 2nd January, 1976 and not later than the 1st January, 1990). Upper age limit is relaxable by 5 years for SC and ST candidates of West Bengal and by 3 years for BC candidates of West Bengal and upto 45 years of age for persons with disabilities having disability of 40% and above as per Govt. Rules. Proof of belonging to a SC or ST or BC or persons with disabilities must be submitted along with the application form and no claim in this regard will be entertained afterwards.

Upper age limit is relaxable for the candidates serving under Govt. of West Bengal.

SC, ST and BC candidates of other States may apply for unreserved vacancies as General candidates.

FEE : Candidates must enclose with their application a fee of Rs.210/- (Rupees Two Hundred and Ten) only by Indian Postal Order which must be purchased on a date after publication of this advertisement and crossed and endorsed to the Secretary, Public Service Commission, West Bengal or by a receipted challan from a Govt. Treasury in West Bengal of the Reserve Bank of India, Kolkata under the head "0051-00-105-State PSC Examination fees-001-Examination fees-16 other fees". The Postal Orders should be made payable at G.P.O., Kolkata. Money Order, Cheque, Bank Draft, Cash etc. will not be accepted. No application will be considered unless accompanied with the requisite application fees, where necessary.

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SC/ST candidates of West Bengal and Physically Handicapped (40% and above) candidates are not required to pay any fee. No fee exemption is available to BC candidates. No claim for refund of the fee will be entertained nor will it be held in reserve for any other examination.

APPLICATION : Completed application in the given proforma as available in the Commission's Website (<http://www.pscwb.org.in>) with (i) L.P.O./Treasury Challan, in original for Rs.210/- only (not required for SC/ST candidates of West Bengal and for candidates having physical disabilities of 40% and above), (ii) One copy of his/her recent passport size photograph signed by him/her and pasted on the application, (iii) Attested or Self-certified photocopies of certificates of age and prescribed educational qualification, (iv) A certificate in original from the appointing authority for relaxation of age as Government servant (where necessary), (v) Attested or Self-certified photocopies of documents issued by competent authority in favour of SC/ST/BC/PH (where necessary) and (vi) Two unstamped self-addressed envelopes may be submitted personally in open condition at the enquiry counter of the Commission's office at 161-A, S.P. Mukherjee Road, Kolkata - 700 026 between 11-00 a.m. and 03-30 p.m. on all working days (Saturdays and Sundays are holidays) or sent by post (strictly by registered or speed post or U.C.P.) on or before the closing date addressed to the Deputy Secretary (Examination), Public Service Commission, West Bengal at the above address superscribing on the envelope the advertisement no. and name of the examination. Applications received after the closing date shall be rejected. The application form shall be filled in candidate's own handwriting with ball point pen in blue/black ink and signed by him/her. Should any of the statements made in the application be subsequently found to be false within the knowledge of the candidate, his/her candidature will be liable to cancellation, and even if appointed to a post on the results of this examination his/her service will be liable to be terminated. Willful suppression of any material fact will also be similarly dealt with. Candidates should take particular note that entries in their applications submitted to the Commission must be made correctly against all the items which will be treated as final and no alteration or addition in this regard will be entertained after submission of the application.

Applications not duly filled in or found incomplete or without requisite documents or defective in any respect will be liable to rejection. In case any of the columns of the Application Form is left unfilled the Application will be treated as incomplete/defective and will be summarily rejected.

Candidates in service of Government, a Local or Statutory Body must submit their applications in prescribed form with the requisite documents direct to the Commission's office within the closing date.

Candidates in service of Government, a Local or Statutory Body are required to submit an undertaking (as in the declaration printed in the Application Form) to the effect that they have informed, in writing, their Head of Office/Department as to their applying for the examination.

PARTICULARS AND CERTIFICATES REQUIRED :

(a) A candidate claiming to be S.C., S.T., B.C. or Persons with Disabilities (40% and above) must have a certificate in support of his / her claim from a competent authority of West Bengal as specified below :

For S.C., S.T. & B.C. Candidates [vide the W.B.S.C. & S.T. (Identification) Act, 1994 and S.C. & T. Welfare Deptt Order No. 261-TW/EC/MR-103/94 dated 6.4.95 read with B.C.W. Deptt. Order No.6320-BCH/MR-84/10, dated 24.09.2010]

- i) In the district, the Sub-Divisional Officer of the Sub-Division concerned, and
 - ii) In Kolkata, the District Magistrate, South 24-Parganas or such Additional District Magistrate, South 24-Parganas, as may be authorized by the District Magistrate, South 24-Parganas, in this behalf.
- For Persons with Disabilities (PWD) [vide West Bengal Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1999]

A Medical Board constituted at Government Medical College Hospitals, District Hospitals and Sub-divisional Hospitals.

(b) The Public Service Commission may require such further proof or particulars from the candidates as it may consider necessary and may make enquiries about their character and other particulars regarding suitability and eligibility.

Original Certificates and photocopies of certificates duly attested relating to citizenship (by registration), age, qualifications, caste (SC/ST/BC), Physical disability (40% and above) and previous employment will have to be submitted when the Commission asks for them. If any candidate fails to furnish any certificate or any other relevant document or information relating to his / her candidature within the time specified by the Commission, his/her claim for allotment may be passed over without further reference to him / her.

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PHOTOGRAPH : The candidates must submit one copy of his / her recent passport size photograph duly signed by him / her which should be pasted on the first page in the space provided for the purpose in the application form. An identical copy of the photograph will be required for pasting on the Attendance Sheet to be sent by this office along with the Admit Card.

CAUTION : The candidates must abide by the instructions as may be given by Supervisors / Invigilators of the Examination. If the candidate fails to do so or indulges in disorderly or improper conduct, he / she will render himself / herself liable to expulsion from the Examination Hall and / or such other punishment as the Commission may deem fit to impose.

A candidate who has been reported against by the Supervisor of the Examination Centre for violating any of the instructions will be punished with cancellation of candidature and also debarment from future examinations and selections as may be decided by the Commission according to the circumstances of the case.

If at any stage even after issue of the letter of appointment, a candidate is found ineligible in terms of advertisement his / her candidature will be cancelled without further reference to him / her.

A candidate should note that his / her admission to the examination will be deemed provisional subject to determination of his / her eligibility in all respects. If at any stage after issue of the admit card a candidate is found ineligible for admission for this examination, his / her candidature will be cancelled without further reference to him / her.

No candidates shall be allowed to take the examination unless he / she holds the Admit Card for the examination.

MEDICAL EXAMINATION : Candidates who will be selected for appointment will be required to appear before a Medical Board for certificates of their fitness for Government service in the form prescribed for the purpose.

CANVASSING : Any attempt on the part of a candidate to enlist support for his / her application through persons, officials of Government, or agencies will disqualify him / her for appointment. Spontaneous recommendations from persons interested in the candidates, or otherwise known to them, will be disregarded and will render the candidates ineligible.

RESULTS OF THE EXAMINATION : The names of the candidates called to Personality Test and those recommended for appointment will be published provisionally subject to determination of eligibility of the candidates in all respects and verification of original certificates etc. If at any stage of such verification any candidate is found ineligible, his / her candidature / allotment will be cancelled.

SUBMISSION OF MORE THAN ONE APPLICATION IS STRICTLY FORBIDDEN. THE CANDIDATURE OF A CANDIDATE WHO SUBMITS MORE THAN ONE APPLICATION FOR ADMISSION TO THE EXAMINATION, WILL BE CANCELLED EVEN IF HE/SHE IS ADMITTED TO THE SAME.

Closing date for receipt of application : **THE 16TH SEPTEMBER, 2013.**

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B

PUBLIC SERVICE COMMISSION, WEST BENGAL
WEST BENGAL LEGAL SERVICE EXAMINATION, 2013

SCHEME AND SYLLABUS

The examination will comprise two successive parts :-

- Part - I : Written Examination;
- Part - II : Personality Test.

Part-I. Written Examination. - The written examination shall consist of following nine papers, each paper carrying 100 marks:-

Paper-I	(a) English composition, essay, précis writing	- 50 marks;	
	(b) Composition and essay writing in Bengali/Hindi/Urdu/Nepali and translation from English to Bengali/Hindi/Urdu/Nepali.	- 50 marks;	
	Note : There shall be separate answer-scripts for (a) and (b);		
Paper-II	(e) General Knowledge	- 50 marks;	
	(b) Current Affairs	- 50 marks;	
Paper-III	(a) Constitutional Law of India	- 50 marks;	
	(b) Constitution of India	- 50 marks;	
Paper-IV	Administrative Law	- 100 marks;	
Paper-V	(a) Interpretation of Statutes and Principles of Legislation and Legislative drafting.	- 80 marks;	} - 100 marks;
	(b) The General Clauses Act, 1897 (10 of 1897) and the Bengal General Clauses Act, 1899 (Ben Act I of 1899).	- 20 marks;	
Paper-VI	(a) The West Bengal Estates Acquisition Act, 1953 (West Ben. Act I of 1954) - Chapters I, II and VII;	} - 100 marks;	
	(b) The West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1956) - Chapters I, II, IIA, IIB, III & IX;		
	(c) The Land Acquisition Act, 1894 (1 of 1894);		
	(d) The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971);		
	(e) The Environment (Protection) Act, 1986 (29 of 1986);		
Paper-VII	(a) The Civil Procedure Code, 1906 (5 of 1906) (Sections only);	} - 100 marks;	
	(b) Civil Rules and Orders (Chapters 1, 2, 6, 7, 8, 9, 10, 11, 12, 16, 19, 20, 24, 25, 27, 28 and 29);		
	(c) Criminal Rules and Orders (Chapters I, II, III, IV, V, VI, VII, VIII, X, XI, XII, XIII, XIV, XVI, XVII and XVIII).		
Paper-VIII	(a) The Criminal Procedure Code, 1973 (2 of 1974) (Chapters I, II, III, IV, V, VIII, IX, X, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXIII, XXVII, XXIX, XXX, XXXI, XXXIV, XXXV, XXXVI);	} - 100 marks;	
	(b) High Court Original Side Rules and Orders;		
	(c) High Court Appellate Side Rules and Orders.		
Paper-IX	(a) The Evidence Act, 1872 (1 of 1872);	} - 100 marks;	
	(b) The Indian Penal Code, 1860 (45 of 1860).		

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Part-II. **Personality Test.** — The Personality Test will be of 100 marks. For this purpose, a limited no. of candidates, selected in order of merit on the results of the written examination, will be called. Final merit list will be prepared on the basis of the total marks obtained in all the written papers and in the Personality Test.

The Public Service Commission, West Bengal shall have the discretion to fix qualifying marks in the aggregate.

The standard of examination in the Law papers (Compulsory and Optional) will be that of the LL.B. Degree of the Calcutta University. All answers must be written either in English or in Bengali except in Paper - I.

In all the answer papers of the Final Examination due credit will be given for proper economy of words combined with clarity and effectiveness of expression and originality of approach.

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Annexure

A-2

Phone : 2256-0546/1540/5662
Ext. : 437

PUBLIC SERVICE COMMISSION, WEST BENGAL
161-A, S. P. Mukherjee Road, Kolkata - 700 026

No. 135 P.S.C. / Con. - IIA.

From : Shri G. Basak,
Assistant Secretary,
Public Service Commission, West Bengal,

Kolkata, the 16th December, 2014.

To : Shri/Smt. CHANCHAL SEN
Roll No. 0443

Sir/Madam,

In connection with your candidature for the West Bengal Legal Service Examination, 2013, I am directed to request you to appear before the Commission for a Personality Test to be held at the Commission's Office (3rd floor) at 161-A, S. P. Mukherjee Road, Kolkata - 700 026 (near Tollygunge Railway Bridge) on the 23rd December, 2014 at 11:00 a.m.

2. You are requested to present yourself at the Waiting Room (3rd floor) positively before 10:30 a.m. on the scheduled date. In case of any difficulty, please contact the undersigned.

3. You are requested to bring with you the following documents in original (along with self certified/attested copies) on the date of your Personality Test for verification:

- (A) Madhyamik or equivalent certificate as evidence of age.
- (B) Certificates / Mark-Sheets of L.L.B. Examination or its equivalent.
- (C) Certificates / Mark-Sheets of all other examinations passed.
- (D) Candidates serving under the Government of West Bengal & claiming relaxation of age should produce at the time of interview a certificate from the appointing authority showing that he/she is in service under Government.
- (E) Scheduled Caste / Scheduled Tribe / Backward Class / Disability Certificate from appropriate authority (applicable only in case of candidates belonging to Scheduled Castes / Scheduled Tribes / Backward Classes / Persons with disability).

4. If you fail to produce any of the required original certificates for verification before the interview, you will not be interviewed by the Commission and your candidature for the above examination will be cancelled by the Commission straightway. In case you do not appear at the Personality Test it will be presumed that you are not interested in this matter and as such your case will be passed over without making any further reference to you.

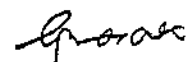
5. Please note that no request for change of date of the Personality Test will be entertained.

6. No travelling allowance will be paid for any journey that may be undertaken in this connection.

7. You are being called for the Personality Test provisionally subject to verification of your eligibility and suitability for the examination in all respects in terms of the rules of the examination.

8. Please bring this letter when you come for the Personality Test.

Yours faithfully,



Assistant Secretary.

Phone : 2466-0546/1540/5662
Ext. : 437

PUBLIC SERVICE COMMISSION, WEST BENGAL
161-A, S. P. Mukherjee Road, Kolkata - 700 026

No. 139 (10) P.S.C. / Con. - IIA.

From : Shri G. Basak,
Assistant Secretary,
Public Service Commission, West Bengal,

Kolkata, the 16th December, 2014.

To : : Shri/Smt. ASHIS KUMAR SAHA

Roll No. 2147

Sir/Madam,

In connection with your candidature for the West Bengal Legal Service Examination, 2013, I am directed to request you to appear before the Commission for a Personality Test to be held at the Commission's Office (3rd floor) at 161-A, S. P. Mukherjee Road, Kolkata - 700 026 (near Tollygunge Railway Bridge) on the 26th December, 2014 at 11:00 a.m.

2. You are requested to present yourself at the Waiting Room (3rd floor) positively before 10:30 a.m. on the scheduled date. In case of any difficulty, please contact the undersigned.

3. You are requested to bring with you the following documents in original (along with self certified/attested copies) on the date of your Personality Test for verification:

- (A) Madhyamik or equivalent certificate as evidence of age.
- (B) Certificates / Mark-Sheets of L.L.B. Examination or its equivalent.
- (C) Certificates / Mark-Sheets of all other examinations passed.
- (D) Candidates serving under the Government of West Bengal & claiming relaxation of age should produce at the time of interview a certificate from the appointing authority showing that he/she is in service under Government.
- (E) Scheduled Caste / Scheduled Tribe / Backward Class / Disability Certificate from appropriate authority (applicable only in case of candidates belonging to Scheduled Castes / Scheduled Tribes / Backward Classes / Persons with disability).

4. If you fail to produce any of the required original certificates for verification before the interview, you will not be interviewed by the Commission and your candidature for the above examination will be cancelled by the Commission straightway. In case you do not appear at the Personality Test it will be presumed that you are not interested in this matter and as such your case will be passed over without making any further reference to you.

5. Please note that no request for change of date of the Personality Test will be entertained.

6. No travelling allowance will be paid for any journey that may be undertaken in this connection.

7. You are being called for the Personality Test provisionally subject to verification of your eligibility and suitability for the examination in all respects in terms of the rules of the examination.

8. Please bring this letter when you come for the Personality Test.

Yours faithfully,



Assistant Secretary.

Phone : 2466-0546/1540/5662
Ext. : 437

PUBLIC SERVICE COMMISSION, WEST BENGAL
161-A, S. P. Mukherjee Road, Kolkata - 700 026

No. 135 P.S.C. / Con. - IIA.

From : Shri G. Basak,
Assistant Secretary,
Public Service Commission, West Bengal,

Kolkata, the 16th December, 2014.

To : Shri/Smt. AMRITA SANYAL

Roll No. 0401

Sir/Madam,

In connection with your candidature for the West Bengal Legal Service Examination, 2013, I am directed to request you to appear before the Commission for a Personality Test to be held at the Commission's Office (3rd floor) at 161-A, S. P. Mukherjee Road, Kolkata - 700 026 (near Tollygunge Railway Bridge) on the 23rd December, 2014 at 11:00 a.m.

2. You are requested to present yourself at the Waiting Room (3rd floor) positively before 10:30 a.m. on the scheduled date. In case of any difficulty, please contact the undersigned.

3. You are requested to bring with you the following documents in original (along with self certified/attested copies) on the date of your Personality Test for verification:

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- (B) Certificates / Mark-Sheets of L.L.B. Examination or its equivalent.
- (C) Certificates / Mark-Sheets of all other examinations passed.
- (D) Candidates serving under the Government of West Bengal & claiming relaxation of age should produce at the time of interview a certificate from the appointing authority showing that he/she is in service under Government.
- (E) Scheduled Caste / Scheduled Tribe / Backward Class / Disability Certificate from appropriate authority (applicable only in case of candidates belonging to Scheduled Castes / Scheduled Tribes / Backward Classes / Persons with disability).

4. If you fail to produce any of the required original certificates for verification before the interview, you will not be interviewed by the Commission and your candidature for the above examination will be cancelled by the Commission straightway. In case you do not appear at the Personality Test it will be presumed that you are not interested in this matter and as such your case will be passed over without making any further reference to you.

5. Please note that no request for change of date of the Personality Test will be entertained.

6. No travelling allowance will be paid for any journey that may be undertaken in this connection.

7. You are being called for the Personality Test provisionally subject to verification of your eligibility and suitability for the examination in all respects in terms of the rules of the examination.

8. Please bring this letter when you come for the Personality Test.

W.B.: You are requested to submit an affidavit reconciling the spelling of your father's name in M.P. Admit Card.

Yours faithfully,

G. Basak

Assistant Secretary

Phone : 2466-0546/1540/5662
Ext. 437

PUBLIC SERVICE COMMISSION, WEST BENGAL
161-A, S. P. Mukherjee Road, Kolkata - 700 026

No. 139 (10) P.S.C. / Con. - IIA.

From : Shri G. Basak,
Assistant Secretary,
Public Service Commission, West Bengal,

Kolkata, the ^{16th} December, 2014.

To : : Shri/Smt. ASHIS KUMAR SAHA
Roll No. 2147

Sir/Madam,

In connection with your candidature for the West Bengal Legal Service Examination, 2013, I am directed to request you to appear before the Commission for a Personality Test to be held at the Commission's Office (3rd floor) at 161-A, S. P. Mukherjee Road, Kolkata - 700 026 (near Tollygunge Railway Bridge) on the 26th December, 2014 at 11:00 a.m.

2. You are requested to present yourself at the Waiting Room (3rd floor) positively before 10:30 a.m. on the scheduled date. In case of any difficulty, please contact the undersigned

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- (B) Certificates / Mark-Sheets of L.L.B. Examination or its equivalent.
- (C) Certificates / Mark-Sheets of all other examinations passed.
- (D) Candidates serving under the Government of West Bengal & claiming relaxation of age should produce at the time of interview a certificate from the appointing authority showing that he/she is in service under Government.
- (E) Scheduled Caste / Scheduled Tribe / Backward Class / Disability Certificate from appropriate authority (applicable only in case of candidates belonging to Scheduled Castes / Scheduled Tribes / Backward Classes / Persons with disability).

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5. Please note that no request for change of date of the Personality Test will be entertained.

6. No travelling allowance will be paid for any journey that may be undertaken in this connection.

7. You are being called for the Personality Test provisionally subject to verification of your eligibility and suitability for the examination in all respects in terms of the rules of the examination.

8. Please bring this letter when you come for the Personality Test.

Yours faithfully,



Assistant Secretary

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Annexure A-3

PUBLIC SERVICE COMMISSION, WEST BENGAL
161-A, SHYAMA PRASAD MUKHERJEE ROAD, KOLKATA - 700 026.

No. : A - 180- PSC(A)

Dated : 16th March, 2015.

The following candidates have been recommended for appointment in the West Bengal Legal Service on the results of the West Bengal Legal Service Examination, 2013 :-

N a m e	Roll No.
MD JONNY UL HAQUE MULLICK (BC-A)	0212
SUTAPA GANGULY(MUKHERJEE)	1436
RATHIS SOM	0508
SHUBHANKUR CHATTERJEE	0421
SUNITA SAHA	0981
NIRANJAN KUMAR GHOSH	0214
SUBHAJIT LAHIRI	1664
MD SAMIM ALAM (BC-A)	1329
SHASHANKA KUMAR NAG	0237
ARIJIT SAHA	1135
SHYAMADIPA CHAKRABORTY	0073
SATARUPA ROY	1693
MONILAL JANA	1290
SOUMYADIP CHAKRABORTY	1425
NILANJANA BANDYOPADHYAY	0660
JOY BANERJEE	1477
SUPRASANNA ROY	1417
NIBEDITA BASU	1077
SUBRATA RAY	1488
BANANI DAS	0078
SWATHI LAMA (ST)	2115
PEDEN DUKPA (ST)	1934
ROSY LAMA TAMANG (ST)	1932

By Order of the Commission,

Secretary

- 33 - 6B

Annexure

A-4

**West Bengal Legal Service Examination, 2013.
Information regarding Cut-Off Marks**

Cut-off marks in West Bengal Legal Service Examination, 2013 to qualify for appearing at the Personality Test:

Category	Marks (out of 900)
Gen	346.5
BC-A	288
BC-B	324
SC	270
ST	252

Qualifying marks at the Personality Test in West Bengal Legal Service Examination, 2013:

Category	Marks (out of 100)
Gen	40
BC-A	38
BC-B	38
SC	35
ST	30

Highest & Lowest Marks in aggregate obtained by the candidates recommended against Unreserved Vacancies in connection with West Bengal Legal Service Examination, 2013:

	Aggregate (out of 1000)
Highest	494.5
Lowest	403

Highest & Lowest Marks in aggregate obtained by the candidates recommended against ST Vacancies in connection with West Bengal Legal Service Examination, 2013:

	Aggregate (out of 1000)
Highest	367
Lowest	329

By the order of the Commission.



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BEFORE THE WEST BENGAL ADMINISTRATIVE
TRIBUNAL, BIKASH BHAVAN, SALT LAKE CITY,
KOLKATA - 700 091.

O.A. No. 413 of 2015

AMRITA SANYAL

... APPLICANT

- Versus -

STATE OF WEST BENGAL & OTHERS

....RESPONDENTS

REPLY ON BEHALF OF THE PUBLIC SERVICE COMMISSION, WEST
BENGAL, RESPONDENT NOS. 1 & 2.

1. That I am serving as the Deputy Secretary in the office of the Public Service Commission, West Bengal, and I am conversant with the facts and circumstances of the case. I have gone through a copy of the application filed by the applicants under Section 19 of the Administrative Tribunal Act, 1985 (hereinafter referred to as the said "Application"). I have understood the meaning and purport thereof.

2. I have been duly authorized to reply to the said application on behalf of respondent Nos. 1 & 2. I have been advised to deal with only those matters, which are relevant to determine the issues and disputes raised in the application and which relate to the Public Service Commission, West Bengal (hereinafter referred to as the "said Commission").

3. With reference to the statements made in paragraphs 6 (a), (b), (c), and (d) of the said application, this deponent states that those are matter of records. Save what are matter of records and save what are stated herein, all other allegations and contentions are denied and disputed.

4. With reference to the statements made in paragraph 6 (e) of the said application, this deponent states that the applicant had done reasonably well is the applicants own perception. The fact is that the candidates, who obtained qualifying marks, both in the Personality Test, as well as in aggregate, have been considered qualified for the West Bengal Legal Service Examination, 2013. As a result, their names were recommended for appointment to the post in West Bengal Legal Service 2013.

The applicant could not, however, attain the qualifying marks in the Personality Test and hence, she has been considered

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disqualified for the examination. This is the actual reason for non-inclusion of the name of the applicant in the list of qualified candidates.

Save what are matter of record and save what are stated herein, all other allegations and contentions are denied and disputed.

5. With reference to the statements made in Paragraph 6 (f) of the said application, this deponent states that at the time of advertisement of the West Bengal Legal Service Examination, 2013, it has been specified in the "Scheme and Syllabus" that final Merit list will be prepared on the basis of Total marks obtained in the obtained in the written papers and in the Personality Test. Subsequently, the commission felt the necessity of introducing qualifying marks in the personality Test. Hence, in September, 2014, before the date of Personality Test and before finalization of the finalization of the results of the Written Examination, the Commission decided that excepting West Bengal Civil Services (Exe.) etc. examination & West Bengal Judicial Service Examination, in all cases of recruitment examination qualifying cut-off marks will be fixed at all stages for all categories.

It may be stated here that in exercise of the powers conferred by Sub-Section 3 of Article 320 of the Constitution of India and the West Bengal Public Service Commission (exemption from consultation) Regulation, 2009, the Commission, being an independent constitutional body has discretion to fix the qualifying standard at any

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time in the preliminary examination, written examination, personality Test and also in aggregate. Hence, the decision of the Commission as regards prescription of qualifying marks in the written examination, as well as in the Personality Test of the West Bengal legal Service Examination, 2013 taken pursuant to the aforesaid rules.

Save what are stated herein all allegations and contentions are denied and disputed.

6. With reference to the statements, made in paragraph 6 (g) of the instant application, this deponent repeats and reiterates the statements made in paragraph 4 of the instant reply and denies all allegations and contentions contrary thereto or inconsistent therewith.

7. With reference to the statements made in paragraph 6 (h) of the said application, this deponent states that the same is due to wrong conception of the applicant, devoid of any reason or logic. It is mentioned here that after completion of the Personality Test, the merit list of qualified candidates had been prepared considering their aggregate marks (i.e. marks for written examination and marks for personality Test, taken together) and qualifying marks in personality Test/aggregate. After advertisement of the West Bengal Legal Service Examination, 2013, the decision of the Commission as regards introduction of qualifying marks in Personality Test was taken pursuant to the provision to sub-section 3 of Article 320 of the constitution of India, and West Bengal Public Service Commission

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(exemption from consultation) Regulations, 2009. Hence, the process adopted by the Commission in this regard cannot be treated as arbitrary and whimsical or unlawful. Public Service Commission has no intention to detriment the interest of the applicant.

This deponent denies and disputes all allegations and contentions and allegations contrary to above or inconsistent therewith.

8. With reference to the statements made in paragraph 6 (i) of the said application, this deponent states that the allegations made in this paragraph are frivolous. The candidates who have secured qualifying marks, both in Personality Test as well as in aggregate have been considered qualified for the aforesaid examination. As a result their names were recommended for the appointment to the post of West Bengal legal Service. It may be mentioned that there is no such qualifying marks for individual written papers in this examination.

Save what have been stated herein, all allegations and contentions are denied.

9. With reference to the statements made in paragraph 6 (j) of the said application, this deponent has no comments in this respect.

10. With regard to the statements made in paragraphs 6 (k) of the said application, this deponent states that the chance of the applicant to place her name in the list of selected candidates of the West Bengal legal Service Examination, 2013 against shifting of 8 candidates from the West Bengal Legal Service list to the West Bengal Judicial Service is the applicants own view. It is illogical, unlawful and contrary to Rules and Regulations. It appears from records that the applicant, Smt. Amrita Sanyal, obtained 95 marks in Personality Test. The qualifying marks for Personality Test for general Category is 40. Since the applicant failed to attain the qualifying marks in the Personality Test, she was considered disqualified for the West Bengal Legal Service examination, 2013. Allegation and contentions contrary to above are denied and disputed.

11. With regard to the statements made in Paragraph 6 (l) of the said application, this deponent has nothing to comment in this respect.

12. With reference to the statements made in paragraph 6 (m) of the said application, this deponent states that the Commission judged the suitability of the applicant whose personality was below the qualifying standard as fixed by the commission may not be selected and recommended for the post in the West Bengal Legal Service, inspite of obtaining qualifying marks in aggregate. Save what have been stated herein, all other allegations and contentions are denied and disputed.

13. So far the grounds for relief under Paragraph 7 of the said application are concerned, these respondents respectfully submit that the Grounds set forth in the said application have no foundation in law and as such are denied.

14. With reference to the reliefs sought for under paragraph 7 and the interim relief prayed for under paragraph 8 of the said application, this deponent respectfully submits that in view of what is stated herein in this reply, the applicant is no entitled to any relief, whatsoever, so far the respondent Nos. 1 and 2 are concerned.

V E R I F I C A T I O N

I, Shri Samir Kumar Bandyopadhyay, Son of Late Gopal Chandra Bandyopadhyay, aged about 58 years, Residing at No: 259, Rail Park, Rishra, PO.-Morepurua, Dt-Hooghly, Pin-712205 working for gain as the Deputy Secretary of Public Service Commission, West Bengal, 161-A, S.P. Mukherjee Road, Kolkata-⁷⁰⁰⁰²⁶ hereby say and verify that the statements made paragraphs 1, 2, 3 to 11 of the foregoing reply are true to the best of my knowledge and belief, derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

Signature of the Deponent

Signatory is identified by me.
He signed this verification in my presence at my Chamber at
1A-192, Salt Lake, Sector - III,
Kolkata - 700 097.

ADVOCATE

Dated : 2015

Place : Kolkata.



R.S.D. 21.10.14
42
79

**MINUTES OF THE FULL COMMISSION MEETING HELD IN THE CHAMBER OF
THE HON'BLE CHAIRMAN, PUBLIC SERVICE COMMISSION, WEST BENGAL ON
19-09-2014 AT 1-00 P.M.**

Present : 1. Sk. Nurul Haque, IAS (Retd.) Hon'ble Chairman
 2. Dr. D.P. Mallick Hon'ble Member
 3. Shri D. Dasgupta Hon'ble Member
 4. Smt. U. Mukherjee Hon'ble Member
 5. Dr. S.S. Sarker Hon'ble Member

Item No. 1 : Engagement of Senior Legal Retainer

The Commission decides that two Senior Legal Retainers namely Shri Apurba Lal Basu, Advocate, West Bengal Administrative Tribunal and Shri Pradip Kumar Ray, Advocate, High Court / Supreme Court will appear at State Administrative Tribunal / High Court respectively on behalf of the Commission. Necessary action will be taken to this effect by the Commission.

[Attention : Establishment Section/ Law Section]

**Item No. 2 : Operating of Cafeteria-cum-Canteen in the premises of Public Service
Commission Building - available space thereof and other related issue**

It has been decided that purely as temporary measure i.e. upto 31st March, 2015 required space at Ground floor in the premises of P.S.C. Building would be provided to Vicky Enterprise of 4B Hingon Jamadar Lane, Kolkata-700 046 on the basis of their application to the Commission with quotation along with rate of products. An agreement is required to be signed in this regard accordingly.

[Attention : Establishment Section]

Besides approved Agenda, some other following points were also discussed :

(i) A proposal for revision as well as updating the syllabus of West Bengal Judicial Services Examination will be forwarded to the Judicial Department, Govt. of West Bengal for consultation of Hon'ble High Court.

[Attention : S&R Section]

(ii) To keep transparency in the Interview Board the Commission may contemplate inviting at least one expert from other states to facilitate the Board/Boards accordingly.

Contd. ... P/2.

(iii) The security & safety of the Question Paper Cell have been taken into consideration by the Commission. It is decided that full proof security with adequate space for strong room have to be provided for Q.P. Cell. In this regard the following steps to be taken :

(a) Strong Room of the Question Paper Cell will have the Double-Locking system and will be converted into Electronic-Locking system with finger-print facilities.

(b) Separate Strong-Room is to be made available for keeping Question Papers of P.S.C. & U.P.S.C. and other organizations, if any and other measures to be taken from time to time as and when required only to make the entire Q.P. Cell made a high security zone.

(c) The entire zone (Q.P. Cell) except specific areas will be under C.C.T.V. surveillance.

Necessary steps be taken as early as possible.

[Attention : Joint Secretary-I]

(iv) At present, in cases of Recruitment Examination conducted by the Examination Section of P.S.C., W.B., no qualifying cut-off marks for interview are fixed, whereas in Selection cases there are qualifying marks for interview as follows :

General	:	40%	
O.B.C.	:	38%	
S.C.	:	35%	(Grade Pay : Below Rs. 6,600/-)
S.T.	:	30%	
General	:	50%	
O.B.C.	:	48%	
S.C.	:	45%	(Grade Pay : Rs. 6,600/- & above)
S.T.	:	40%	

Now the Commission decides that excepting West Bengal Civil Services (Executive) etc. Examination & West Bengal Judicial Services Examination, in all cases of recruitment examination qualifying cut-off marks will be fixed at all stages for all categories as in Selection cases.

The Commission may further lower the qualifying level categoriwise as and when necessary in the event of non-availability of candidates for filling up vacancies in a particular category

[Attention : Confidential Section]

Contd. ... P/3.

(v) Consequent upon delinking of Group 'B' & 'C' posts from the purview of P.S.C., W.B. P&AR Department may be moved for obtaining their views in respect of recruitment to the posts of in W.B.C.S. (Executive) – Gr. 'D' holding Grade Pay lower than Rs. 4,400/- (Gr. 'A' post).

[Attention : S&R Section]

(vi) To cope up with the process of ongoing recruitment examinations both online & offline the Commission feels the need of expertise in the I.T. related areas. As such, Finance Department will be moved for posting of two W.B.C.S. (Executive) Officer on deputation to P.S.C., W.B. in the rank of Joint Secretary to be posted as Additional Secretary and O.S.D. & E.O.-D.S. to be posted as Deputy Secretary in the P.S.C., W.B. Secretariat. In addition to that two officers of W.B.S.S. cadre may also be required to post as Deputy Secretary of the P.S.C., W.B. Secretariat on deputation as some senior officers of the P.S.C., W.B. will due to be retired on superannuation by April, 2015. Pending creation of the posts, the Finance Department be moved accordingly.

[Attention : Establishment Section]

(vii) To mitigate the inconveniences faced by the employees of the sections in the top floor of the P.S.C., W.B. Building caused owing to tremendous heat during summer the Commission has felt the necessity to take suitable steps for installation of A.C. in the top floor (9th floor) of the Commission. Action in this regard be taken accordingly.

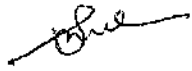
[Attention : Establishment Section]

(viii) The Commission has felt the necessity of another emergency fire-exit in the south part of the P.S.C. Building. Action will be taken in this regard at the earliest.

[Attention : Establishment Section]

The Commission bade farewell and put on record with deep sense of gratitude and the warmest appreciation of the valuable and commendable service rendered by Smt. U. Mukherjee, Hon'ble Member to the Commission who retired on 19-09-2014.

As no other issues remained pending for discussion, the meeting ended with vote of thanks to and from the Chair.


(Sk. N. Haque)
Chairman,

Public Service Commission, West Bengal

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PUBLIC SERVICE COMMISSION, WEST BENGAL
WEST BENGAL LEGAL SERVICE EXAMINATION, 2013

SCHEME AND SYLLABUS

The examination will comprise two successive parts :-

- Part - I : Written Examination;
- Part - II : Personality Test.

Part-I Written Examination. - The written examination shall consist of following nine papers, each paper carrying 100 marks :-

- | | | |
|---------|---|----------|
| Paper-I | (a) English composition, essay, précis writing | 50 marks |
| | (b) Composition and essay writing in Bengali/Hindi/Urdu/Nepali and translation from English to Bengali/Hindi/Urdu/Nepali. | 50 marks |

Note : There shall be separate answer-scripts for (a) and (b);

- | | | |
|------------|--|-----------|
| Paper-II | (a) General Knowledge | 50 marks |
| | (b) Current Affairs | 50 marks |
| Paper-III | (a) Constitutional Law of India | 50 marks |
| | (b) Constitution of India | 50 marks |
| Paper-IV | Administrative Law | 100 marks |
| Paper-V | (a) Interpretation of Statutes and Principles of Legislation and Legislative drafting. | 80 marks; |
| | (b) The General Clauses Act, 1897 (10 of 1897) and the Bengal General Clauses Act, 1899 (Ben Act I of 1899). | 20 marks; |
| Paper-VI | (a) The West Bengal Estates Acquisition Act, 1953 (West Ben. Act I of 1954) - Chapters I, II and VII. | 100 marks |
| | (b) The West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1955) - Chapters I, II, IIIA, IIIB, III & IX. | |
| | (c) The Land Acquisition Act, 1894 (1 of 1894); | |
| | (d) The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971); | |
| | (e) The Environment (Protection) Act, 1986 (29 of 1986); | |
| Paper-VII | (a) The Civil Procedure Code, 1908 (5 of 1908) (Sections only); | 100 marks |
| | (b) Civil Rules and Orders (Chapters 1, 2, 6, 7, 8, 9, 10, 11, 12, 18, 19, 20, 24, 25, 27, 28 and 29); | |
| | (c) Criminal Rules and Orders (Chapters I, II, III, IV, V, VI, VII, VIII, X, XI, XII, XIII, XIV, XVI, XVII and XVIII). | |
| Paper-VIII | (a) The Criminal Procedure Code, 1973 (2 of 1974) (Chapters I, II, III, IV, V, VIII, IX, X, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXIII, XXVII, XXIX, XXX, XXXI, XXXIV, XXXV, XXXVI); | 100 marks |
| | (b) High Court Original Side Rules and Orders; | |
| | (c) High Court Appellate Side Rules and Orders. | |
| Paper-IX | (a) The Evidence Act, 1872 (1 of 1872); | 100 marks |
| | (b) The Indian Penal Code, 1860 (45 of 1860). | |

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- 27 -

Part-II Personality Test. — The Personality Test will be of 100 marks. For this purpose, a limited no. of candidates, selected in order of merit on the results of the written examination will be called. Final merit list will be prepared on the basis of the total marks obtained in all the written papers and in the Personality Test.

The Public Service Commission, West Bengal shall have the discretion to fix qualifying marks in the aggregate.

The standard of examination in the Law papers (Compulsory and Optional) will be that of the LL.B. Degree of the Calcutta University. All answers must be written either in English or in Bengali except in Paper - I.

In all the answer papers of the Final Examination due credit will be given for proper economy of words combined with clarity and effectiveness of expression and originality of approach.

Date of application

18/02/16

Date on which the document is ready for delivery

26/02/16

Date of delivery

29/02/16

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata-700091

CERTIFIED COPY

Application No. OA/TA/MA/CCP/RA

1274 / 15

Present : 1.

Shri Amit Talukdar, Hon'ble Chairman

2.

Mr. Samar Ghosh, Hon'ble Member(A)

3.

4.

5.

APPLICANT(S)

B. Das

RESPONDENT(S)

State of W.B. & Ors.

REPRESENTED BY :

B. Das



REPRESENTED BY :

S. Ghosh

ORDER SHEET
West Bengal Administrative Tribunal

Present.-
The Hon'ble
&
The Hon'ble

Case No.

Serial No. and date of order	Versus Order of the Tribunal with signature	The State of W. B. & ors. Office action with date and dated signature of parties when necessary.
1	2	3
04 10/02/2016	<p>Case No. OA-1274/2015: <u>Banani Das vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Ms. Banani Das, Appears in person.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p>Case No. OA-412/2015: <u>Chanchal Sen vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. Masud Karim, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p>Case No. OA-413/2015: <u>Amrita Sangal vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. Masud Karim, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p>Case No. OA-414/2015: <u>Moumita Mitra vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. Masud Karim, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p style="text-align: right;">Contd. P/2</p>	



ORDER SHEET - (Continuation)

Form No.

Vs

The State of W.B. & ors.

Case No Serial No. and date of order	Order of the Tribunal with signature	Office action with date and dated signature of parties when necessary.
1	2	3
	<p>Case No. OA-415/2015: <u>Sekhar Das vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. Masud Karim, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p>Case No. OA-416/2015: <u>Ashis Kr. Saha vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. Masud Karim, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p>Case No. OA-429/2015: <u>Abdul Hoque & ors. vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANTS : Mr. G. P. Banerjee, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p>Case No. OA-436/2015: <u>Munmun Saha, vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. G. P. Banerjee, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p style="text-align: right;">Contd. P/3</p>	



ORDER SHEET – (Continuation)

Form No.

Vs

The State of W.B. & ors.

Case No Serial No. and date of order	Order of the Tribunal with signature	Office action with date and dated signature of parties when necessary.
1	2	3
	<p>Case No. OA-437/2015: <u>Snehasis Mandal vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. G. P. Banerjee. Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p>Case No. OA-470/2015: <u>Rathin Biswas vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. G. P. Banerjee. Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p>Case No. OA-807/2015: <u>Sangita Dutta vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. G. P. Banerjee. Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p>Case No. OA-1128/2015: <u>Joy Banerjee vs. The State of W.B. & Ors.</u></p> <p>FOR THE APPLICANT : Mr. Bharat Bhushan, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p style="text-align: right;">Contd. P/4</p>	



ORDER SHEET – (Continuation)

Form No.

Vs

The State of W.B. & ors.

Case No Serial No. and date of order	Order of the Tribunal with signature	Office action with date and dated signature of parties when necessary.
1	2	3
	<p>Case No. OA-1182/2015: Soumyadip Chakraborty vs. The State of W.B. & Ors.</p> <p>FOR THE APPLICANT : Mr. Bharat Bhushan, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p>	
	<p>Case No. OA-1183/2015: Suprasanna Roy vs. The State of W.B. & Ors.</p> <p>FOR THE APPLICANT : Mr. Bharat Bhushan, Ld. Advocate.</p> <p>FOR THE RESPONDENTS : Mr. Sankha Ghosh, Ld. Advocate.</p> <p>FOR THE P.S.C., W.B : Mr. A. L. Basu, Mrs. M. Dhar Chowdhury, Ld. Advocates.</p> <p><i>Judgement is pronounced and delivered in open Court in presence of all the parties in separate sheets of paper.</i></p> <p><i>Plain copy to the parties present.</i></p>	

Sd/- Amit Talukdar
Chairman

Sd/- Samar Ghosh
Member(A)

Certified to be True Copy

A. Talukdar 17.02.14

Section Officer Super. I/A
West Bengal Administrative Tribunal



W.B.A.T.

1 O.A. - 1274/2015, 412/15, 413/15, 414/15, 415/15, 416/15,
429/15, 436/15, 437/15, 470/15, 807/15, 1128/15,
1182/15 & 1183/15.

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
KOLKATA - 700 091**

Present :-

Shri Amit Talukdar
Chairman

-AND-

Shri Samar Ghosh
Member (A)

JUDGMENT

-of-

<u>Case No. : O.A. 1274 of 2015</u>	: Banani Das
<u>Case No. : O.A. 412 of 2015</u>	: Chanchal Sen
<u>Case No. : O.A. 413 of 2015</u>	: Amrita Sanyal
<u>Case No. : O.A. 414 of 2015</u>	: Moumita Mitra
<u>Case No. : O.A. 415 of 2015</u>	: Sekhar Das
<u>Case No. : O.A. 416 of 2015</u>	: Ashis Kr. Saha
<u>Case No. : O.A. 429 of 2015</u>	: Abdul Hoque & Ors.
<u>Case No. : O.A. 436 of 2015</u>	: Munmun Sahu
<u>Case No. : O.A. 437 of 2015</u>	: Snehashis Mandal
<u>Case No. : O.A. 470 of 2015</u>	: Rathin Biswas
<u>Case No. : O.A. 807 of 2015</u>	: Gangita Dutta
<u>Case No. : O.A. 1128 of 2015</u>	: Joy Banerjee
<u>Case No. : O.A. 1182 of 2015</u>	: Soumyadip Chakraborty
<u>Case No. : O.A. 1183 of 2015</u>	: Suprasanna Roy

..... Applicants.

-Versus-

The State of West Bengal & Others.

..... Respondents.

For the Applicants :-

Smt. Banani Das, In person.
(In OA-1274 of 2015)
Shri M. Karim, Ld. Advocate.
(In OA-412/2015, OA-413/2015, OA-414/2015,
OA-415/2015, OA-416/2015)
Shri G.P. Banerjee, Ld. Advocate.
(In OA-429/2015, OA-436/2015, OA-437/2015,
OA-470/2015, OA-807/2015)
Shri Bharat Bhushan, Ld. Advocate.
(In OA-1128/2015, OA-1182/2015, OA-1183/2015)

For the Respondents :-

Shri S. Ghosh, Ld. Advocate.
(In all cases)

For PSC, WB :-

Shri A.L. Basu, Ld. Advocate.
Smt. M.D. Chowdhury, Ld. Advocate.
(In all cases)



Judgment delivered on : 10/02/2016.

The Judgment was delivered by Shri Amit Talukdar:-

J U D G M E N T

These Original Applications have been heard together and are being disposed of by this common order. These relate to cause of action which are intertwined with each other and as such this order will govern the fate of all the Applications.

2. Factual matrix of the present case can briefly be traced to Advertisement No. 07/2013 issued by the Public Service Commission, W.B. (PSC, WB) notifying that the West Bengal Legal Service Examination, 2013 (WBLSE) will be held for recruitment to the post of West Bengal Legal Service. It was mentioned that the Written Examination will be held in December, 2013 followed by Personality Test.
3. Aspiring for the same, these Applicants sat for the WBLSE conducted by the PSC, WB.
4. Some amongst them could crack the same, whilst others missed the mark.
5. In such trajectory, the Tribunal has been approached by those who crossed the hurdle in one hand. On the other hand, those who could not make it to the victory point have also moved the Tribunal for conflicting relief which, when decided will have to act as a boon for some and necessarily bane for others.
6. The Applicants : Snehashis Mondal (OA-437/2015); Abdul Hoque (OA-429/2015); Sangita Dutta (OA-807/2015); Chanchal Sen (OA-412/2015); Amrita Sanyal (OA-413/2015); Moumita Mitra (OA-414/2015); Sekhar Das (OA-415/2015); Ashis Kr. Saha (OA-416/2015); Munmun Sahu (OA-436/2015) and Rathin Biswas (OA-470/2015) [**he had prayed for preparation of a separate panel for the post of Scheduled Caste category candidates amongst other relief**] had prayed for recasting the panel prepared by the Commission on the basis of the marks obtained by them in their Written and Oral Test without taking into account the cut-off marks for the Personality Test which was subsequently applied by the PSC, WB.
7. The Applicants : Joy Banerjee (OA-1128/2015); Soumyadip Chakraborty (OA-1182/2015); Suprasanna Roy (OA-1183/2015) including the Applicant Banani Das (OA-1274/2015) have prayed for



necessary directions on the Law Department for allowing them to join the service in view of their selection as intimated by the PSC, WB.

8. After the aforesaid batches of Applications were clubbed together, these were heard analogously. Shri G.P. Banerjee, Shri M. Karim appeared for those Applicants who had challenged the Examination held by the PSC, WB and have prayed for recasting the panel since they felt the PSC, WB had subsequently, in course of the Examination process, initiated cut off marks for the Personality Test which was hitherto not mentioned in the Original Advertisement. The Applicant, Banani Das appeared in person and made her submissions. Shri Bharat Bhushan appeared for other similarly situated Applicants whose cases were identical with that Ms. Banani Das and supported the stand of the PSC, WB.

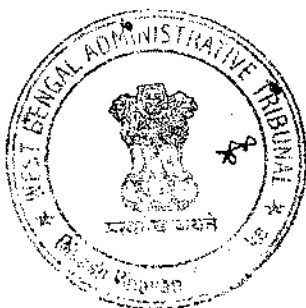
9. Shri A.L. Basu with Smt. M.D. Chowdhury appeared for the PSC, WB and the State was represented by Shri Sankha Ghosh.

10. Reply and Rejoinder have been exchanged between the parties. Shri S. Ghosh, Ld. Counsel for the State Respondents; has used a single Reply covering all the Applications. Shri Basu, Ld. Counsel for the PSC, WB, has used individual Reply in each case.

11. Written notes of argument have been filed by the respective parties.

12. We will now proceed to decide the moot question which has fallen for consideration in these batches of Applications. As we have found, some of the Applicants mentioned in paragraph 6 of this Order could not achieve success whilst others who have been successful were not given appointment on account of the interim order granted by the Tribunal earlier. Yet there are cases of 13 candidates from the general vacancies and 3 candidates from the ST vacancies who have been given appointment on 29.10.2015 as evident from para 13 of the Reply filed by the Law Secretary, Government of West Bengal. The State has taken a stand that they were given appointments as their selection will remain unaffected in case of revision of PSC list in future.

13. A decision of the PSC, WB has fallen foul with some whilst it has been anointed with the seal of approval by others, who obviously were not affected by the same.



14. In the written argument submitted by Ms. Banani Das appearing in person and Shri Bharat Bhusan, Ld. Counsel has sought to sustain the recommendation of the PSC, WB and have referred to various decisions of the Hon'ble Supreme Court with regard to the legality of the prescription for separate minimum qualification marks for Personality Test. The PSC, WB in the written notes^{of} argument have reiterated its stand that it acts as a Constitutional Body and had the authority to fix the minimum cut off marks pertaining to the Personality Test.

15. Shri Banerjee and Shri Karim took the stand that the Applicants represented by them (as detailed in paragraph 6 of this order) duly qualified in the Written Test. It was their stand that these Applicants secured more marks than those selected by the PSC, WB on the basis of aggregate marking. According to them, the PSC, WB had deviated from their Advertisement and introduced the cut off marks in the Personality Test in the midst of the Examination which is not permissible in the absence of prior intimation. They have taken a leaf from the pages of the Reply filed by the State and submitted since the State itself was of the view that the exercise conducted by the PSC, WB was not above board, the Tribunal should interfere with the same.

16. From the Reply filed by the Law Secretary, we find a very important aspect of the matter has been focused, which if taken care of, will resolve the entire issue. From paragraph 8 onwards, we find that in the Reply, the stand of the State has been specifically clarified in a way which completely exposes the process which has been followed by the PSC, WB thus making it vulnerable for judicial review by this Tribunal.

17. It is the specific stand of the State that the PSC, WB has introduced separate cut off marks in the Personality Test of the WBLSE, 2013 whereas in the Advertisement for WBLSE, 2013, there was no mention of separate cut off marks in the Personality Test and no communication was made by the PSC, WB to the Law Department for introduction of separate cut off marks in the Personality Test of the WBLSE, 2013.

18. The State further averred that till date in respect of Recruitment of the West Bengal Judicial Service Examination (WBJSE) and the West Bengal Civil Service Examination (WBCSE) which are also State Constituted Service, there is no provision for separate cut off marks in



the Personality Test. Furthermore, we find from the Reply of the Law Secretary that the name of the candidates who obtained more than the lowest marks in aggregate recommended for appointment against general vacancies by the PSC, WB have not been considered in the Final Merit List due to introduction of cut off marks in the Personality Test of WBLSE, 2013.

19. The issue which has fallen for consideration before the Tribunal in these batches of Applications can be narrowed down to a short conspectus. In view of the conclusion we are about to arrive, we have not dealt with and considered the various citations which have been placed before us as because we feel the issue here is simply otherwise and has to be understood from a different perspective.

20. Fact remains that the Law Department had requested the PSC, WB for recommending 23 names for selection for the WBLSE, 2013 which was a Constituted State Service. For the purpose of Recruitment of Law Officers under the WBLSE, there seems to be a specific Recruitment Rule [West Bengal Legal Service (Recruitment) Rules, 2007]. According to the said Rules, the PSC, WB has the discretion to fix the qualifying marks in the aggregate. Nowhere it says that PSC, WB shall have the discretion to fix qualifying marks for the Personality Test. The provision of the Recruitment Rules was, in fact, reproduced in the Original Advertisement wherein it was also clearly mentioned that PSC, WB shall have the discretion to fix the qualifying marks in the aggregate. But, it is seen that PSC, WB has gone beyond the specific provision in the Recruitment Rules as well as the original stipulation in the Advertisement by fixing qualifying marks for the Personality Test also. As the Rules did not provide for prescribing minimum cut-off marks in the Personality Test for the purpose of selection, the fixation of minimum marks in the Personality Test by the PSC, WB in the absence of enabling provision would amount to amending the Rule itself which the PSC, WB is not competent to do. It is a settled position that there is no inherent jurisdiction of the Selection Committee/Authority to lay down such norms of selection in addition to the procedure prescribed by the Rules. Selection is to be made with strict adherence to the statutory provisions. Furthermore, when the Advertisement inviting Application mentioned that PSC, WB shall have the discretion to fix qualifying marks in the aggregate, fixation of qualifying marks for the Personality Test separately midway is also ~~not~~ ~~not~~. Necessarily the settled position was unsettled



by the PSC, WB which resulted in several candidates who could have been otherwise successful suffering reverses.

21. Had not the PSC, WB fixed the qualifying marks for the Personality Test midway and that too by deviating from the provision in the Recruitment Rules, the fate of some of the candidates who could not be successful would have definitely been otherwise as some of them had obtained higher marks than those who have been recommended for appointment.

22. From a broad overview of the entire facts of these cases, we find that both Shri Banerjee and Shri Karim, representing the Applicants, who have been enumerated in paragraph 6 of this order had been successful in establishing a *prima facie* case in their favour, whilst the stand taken by Shri Basu, Ld. Counsel for the PSC, WB, to defend its action did not impress us in view of the findings we had arrived. Similarly, the submission of Ms. Das, appearing in person and Shri Bharat Bhushan, Ld. Counsel for the Other Applicants, who had stoutly defended the action of the PSC, WB did not appeal to us as we found that the entire process adopted by the PSC, WB in preparing the final list of candidates recommended for appointment West Bengal Legal Service on the basis of WBLSE, 2013 was not in accordance with the Original Advertisement issued for the purpose of the said Examination and also was not in accordance with the provision of the Recruitment Rules as mentioned hereinbefore.

23. Apart from the fact that we are of the view that the approach of the PSC, WB is not acceptable as it had changed the rule of the game in the midway and also deviated from the provision of the Recruitment rules, we find the State had taken a specific stand which we have discussed earlier that the PSC, WB has exceeded its brief keeping the State in the dark about the introduction of cut off marks in the Personality Test.

24. In all, in the light of the discussion held by us, we feel that the basis adopted by the PSC, WB while preparing the list of candidates recommended for appointment to the West Bengal Legal Service on the basis of WBLSE, 2013 suffers from serious discrepancy and is thus amenable to judicial review. In the event the same is not corrected, it will result in a travesty of justice.



W.B.A.T.

7 O.A. - 1274/2015, 412/15, 413/15, 414/15, 415/15, 416/15,
429/15, 436/15, 437/15, 470/15, 807/15, 1128/15,
1182/15 & 1183/15.

25. Accordingly, we dispose of these batches of Applications by directing the PSC, WB to recast the selected panel on the basis of which recommendation has been made to the WBLSE, 2013. The PSC, WB, while recasting the panel will strictly adhere to the tenor of the Original Advertisement as well as the provision of West Bengal Legal Service (Recruitment) Rules, 2007 and not take into account the cut-off marks for the Personality Test as introduced by them in their wisdom midway of the Examination. The panel after being recast in terms of this order will be sent to the State Government within **six weeks**.

26. The Applications are thus **disposed of** in the aforesaid terms.

27. Interim Order passed earlier by the Tribunal merges with the final order passed today in view of the decision arrived at by the Tribunal.

28. Let a plain copy of this Judgment be issued to the respective contesting parties.

Sd/- SAMAR GHOSH
MEMBER (A)

Sd/- AMIT TALUKDAR
CHAIRMAN

Certified to be True Copy

K. K. Talukdar 29.02.16
Section Officer/Suptt./H.A.
West Bengal Administrative Tribunal



DISTRICT: 24 PARGANAS(SOUTH)
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE.

W.P. S.T. No. 84 (W) of 2016

IN THE MATTER OF:

An application under Article 226 of the
Constitution of India ;

Public Service Commission, West
Bengal and Another

..... Petitioners

- Versus -

Amrita Sanyal

..... Respondent

Sharboni Sarkar
Advocate
High Court, Calcutta
Bar Association, Room No.2