

W.P.S.T. 17 of 2025

Jayanta Sarkar & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Mainak Singha Barma,
...for the Petitioners

Mr. Tapan Kumar Mukherjee, Sr. Adv.,
Ms. Sangeeta Roy
...for the State Respondents

Ms. Shraboni Sarkar,
Ms. Krishna Yadav
...for the PSC

1. The present writ petitioners participated in a process of selection initiated by Advertisement No. 15 of 2018. The same was for recruitment of Fire Operators. The recruitment process comprised of marks to be awarded in the written examination, personality test and desirable qualifications. An endurance test was also part of the recruitment process, having regard to the nature of duties expected to be performed by the recruits. The petitioners participated in the recruitment process. They thereafter emerged successful in the written examination. In the final merit list, they could not find place in the merit list published on 11.02.2021. Thereafter, when they did not figure in the final merit list, they approached the West Bengal Administrative Tribunal (hereinafter referred to as the 'S.A.T.').

2. The learned counsel for the petitioners submits that the matter finally travelled to this Court and a Division Bench of this Court in W.P.S.T. No. 44 of 2022 vide its Judgement dated 23.12.2022, after considering the various infirmity in the recruitment process pointed out by the various petitioners including these petitioners, issued the following directions:

“On the conspectus of the findings and/or reasons assigned herein below, the following directions are passed:-

(i) The PSC shall publish a fresh merit list after scrutinising the certificates not only pertaining to caste but also under the desirable qualification submitted by each candidates and shall ensure that such certificates are in conformity with the conditions incorporate in the advertisement i.e., certificates issued by a competent authority mentioned therein and shall also ensure that the said certificates if found in order are issued by a competent authority on or before the closing date for submission of online application i.e. 3.7.2018.

(ii) After scrutiny of the certificate in terms of the direction above the candidates who are included in the fresh merit list to be published, the PSC shall disclose such certificates of the successful candidates on the website portal for access to all the candidates.

(iii) So far as the category of Meritorious Sportspersons are concerned

the PSC after making a verification and scrutiny of the certificates shall allot the requisite marks as disclosed in the advertisement and shall also publish the break up marks of each candidates in addition to the fresh merit list. The relevant certificates issued by the competent authority as mentioned in the said advertisement shall also be uploaded in the web portal of the PSC.

(iv) The PSC shall ensure that the certificates submitted by the candidates under the reserved category as well as Meritorious Sportspersons are in conformity with the conditions laid down in the advertisement and in the event, the same is not issued by a competent authority or issued after the closing date for submission of online application i.e. 3.7.2018 shall reject the said applications and such candidate shall not be treated under the reserved category but may be included under the unreserved category if the marks secured by them entitled him within the zone of appointment.

(v) No appointment shall be given to the candidates on the basis of the merit list already published in terms of the order of the Tribunal until the fresh publication of the merit list in terms of this order.

(vi) The PSC shall complete the exercise within two months from the date and shall invite the objections if there be any thereupon, within a week therefrom.

(vii) In the event, the objections are received; the selection committee shall consider such objections and

upload its decision on the portal within fortnight from the last date of the submission of such objection.”

3. The petitioners thereafter have submitted their individual grievances regarding marks being not allotted in respect of the certificate/s held by them claiming that they have been discriminated against. It is their case that though others having certificates issued from the same organisation/s have been awarded marks in the recruitment process, the petitioners have not been awarded any marks in respect of the certificate/s held by them from the same organisation/s.
4. After the petitioners submitted their objections, the final merit list has again been published wherein their names do not figure. It is under such circumstances, they approached the S.A.T. by filing O.A. No. 489 of 2023. The S.A.T. has disposed of the matter by an order dated 09.01.2025. The S.A.T. has taken note of the fact that the recruitment process was earlier challenged in W.P.S.T. No. 44 of 2022. The matter was disposed of and therefore, the S.A.T. is of the opinion that a second O.A. for the same cause of action was not maintainable.
5. The learned counsel for the petitioners has vehemently submitted that findings of the S.A.T.

are unsustainable. There was a clear-cut direction of the Division Bench in the writ proceedings, extracted above. In compliance of the said directions when the petitioners have made their objections the certificate/s held by them are not being considered whereas those submitted by others from the same organisation/s have been considered and marks awarded thereupon to the other candidates. This is an aspect which was required to be considered by the authorities which they have not done.

6. We find that the said submission to be untenable so as to sustain the filing of a fresh Original Application for the simple reason that the petitioners' substantial grievance is the non-consideration of the certificate/s held by them in spite of directions of the Division Bench in W.P.S.T. No. 44 of 2022.
7. If the petitioners have a grievance regarding violation of the directions issued by the writ Court, we are of the considered view that filing of a successive O.A. and writ petition for the same relief is not the appropriate remedy. If at all the petitioners are aggrieved by non-compliance with the directions passed by the writ court in W.P.S.T. No. 44 of 2022, they were required to take recourse to appropriate proceedings for

implementation/compliance for execution of the order passed in W.P.S.T. No. 44 of 2022.

8. Having considered the matter from this point of view, we proceeded to examine the substance of the allegations levelled by the writ petitioners in the second round of litigation in the successive O.A. (O.A. No. 489 of 2023). The petitioners in so many words have stated in their Original Application that at the time the interview was conducted, they were prevented from submitting their certificates. Such statement has been made in paragraph '1' of the O.A. which we consider it profitable to reproduce:

"1)After publication of the merit list the applicants came to know that some candidates desirable qualification marks are newly added but the marks of the applicants herein under desirable qualification have not been given by the PSC authority inspite of the fact that the applicants are denied by the interview Board member to submit their certificates pertaining to swimming, fire fighting and ITI respectively at the time of interview at the first instance."

9. If the petitioners have not submitted their certificates as asserted by them in the O.A., at the time of the interview then clearly the order passed by the Division Bench in W.P.S.T. No. 44 of 2022

could not inure to the benefit of the petitioners inasmuch as the coordinate Bench of this Court in unambiguous terms stated in the direction contained in paragraph '(iv)' of the said order extracted above that the P.S.C. was to ensure that the **“certificates submitted by the candidates”** under the reserved category as well as Meritorious Sportspersons are in conformity with the conditions laid down in the advertisement. The order passed by this Court is therefore, limited to a direction upon the commission to ensure that the certificate/s already submitted by the candidates were to be examined with a view to ascertain whether they were awarded marks in terms of the advertisement and whether consideration was in terms of the advertisement, or not. But petitioners had admittedly not submitted the certificates. Though it is alleged that they were prevented from doing so, but the fact remains that they had not submitted the certificate and thus there was no scope for looking into the certificates. This Court in the order dated 23.12.2022 passed in W.P.S.T. No. 44 of 2022 did not allow submission of certificates afresh. The admitted position being that the petitioners had not submitted the certificates at the time of interview, the petitioners could not derive any

benefit on the basis of the certificates/s that they claim to be held by them.

10. In view of the above consideration, we find that no case is made out for interfering with the order passed by the S.A.T. on 09.01.2025 in O.A. No. 489 of 2023 whereby and whereunder the S.A.T. has refused to pass any order/s in favour of the petitioners.
11. The Writ Petition being W.P.S.T. No. 17 of 2025 is accordingly dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)