

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

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble Mr. Subesh Kumar Das (Administrative Member)

Case No – O.A. 31 of 2020

FARZANA ALAM Vs **The State of West Bengal & Ors.**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>2</p> <hr/> <p>21.01.2020</p>	<p>For the Applicant : Mr. G.P. Banerjee, Advocate</p> <p>For the Respondents : Mr. S. Ghosh, Advocate</p> <p>For the Principal Accountant: Mr. B. Mitra, General(A&E) West Bengal Departmental Representative</p> <p>The matter is taken up pursuant to the notice no. 76-WBAT/1E-08/2003 (Pt.II) dated 17th January, 2020.</p> <p>Let affidavit of service filed be kept on record.</p> <p>The matter has come up under the heading “Admission Hearing”. Since last date for filing the application for the post of Physiotherapist Grade-III in the West Bengal Health Service under the Health & Family Welfare Department, Government of West Bengal is 29th January, 2020, on the prayer Mr. G.P. Banerjee, learned advocate for the applicant, as we find there is urgency, the matter is taken up for hearing.</p> <p>Mr. Banerjee submits that as the applicant is a contractual employee on consolidated monthly remuneration since 28th August, 2018 and has been discharging his duties and as she possesses necessary qualifications, appropriate interim order may be passed</p>	

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	<p>directing the respondents to allow her to file the application for the said post and to participate in the selection process. Submission is as it is evident that the representation was filed on 3rd January, 2020 and on 9th January, 2020 before the Secretary and Controller of Examinations, West Bengal Health Recruitment Board, Kolkata, and the Director of Health Services, Government of West Bengal, the respondent nos.4 and 2 respectively, appropriate order may be passed. In this regard our attention has also been drawn to the judgement in W.P. 2256 (W) of 2011 : Gobinda Chandra Mondal vs. Principal, Rabindra Mahavidyalaya : 2013 (1) CHN (CAL) 9.</p> <p>Mr. S. Ghosh, learned advocate for the State respondents, referring to paragraph 25 of the judgement in Gobinda Chandra Mondal (supra), submits that as the said judgement, though directing relaxation of age, has imposed certain conditions, it is to be examined whether the applicant fulfils those conditions or not. Mr. Ghosh relies on the judgement passed on 23rd July, 2018 in W.P.S.T. No. 53 of 2018 : The Chairman, Public Service Commission, West Bengal vs. Palash Kumar Samanta & Ors.</p> <p>Heard Mr. Banerjee and Mr. Ghosh. Since we find that the applicant is a contractual staff since 28th August, 2018 and stated to be possessing the qualifications for applying for the post of Physiotherapist</p>	

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SCN.	<p>Grade-III and as she has submitted the representation dated 3rd January, 2020 and 9th January, 2020 praying for condoning her age for filing the application for appearing in the selection process, we find a prima facie case has been made out for passing an interim order. Therefore, let there be an interim order directing the respondent nos. 3 and 4 to allow the applicant to submit the application for the post of Physiotherapist Grade-III in hard copy format without prejudice to the rights and contentions of the parties and subject to the further order that may be passed. If the selection process is undertaken, the applicant will be allowed to participate. However, the mark sheet and answer script of the applicant shall be kept in sealed cover and the result shall not be published without the leave of the Tribunal. It is made clear that this order will not create equity in favour of the applicant.</p> <p>Let reply be filed by 6th March, 2020. Rejoinder, if any, by 30th March, 2020. Matter to appear under the heading "Reply, Rejoinder and Objection" on 8th April, 2020 before the Division Bench 1B.</p> <p>As prayed for, let plain copies of this order be given to the parties.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	