

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No – OA 1027 OF 2017

Subhasis Das 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
04 06.06.2018	<p>For the Applicant : Mr. P. Ganguly, Learned Advocate.</p> <p>For the Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents to recommend the name of the applicant for appointment to the post of Medical Technologist (Lab) Grade-III on the basis of requisite qualification of the applicant.</p> <p>The applicant submitted application for participating in the selection process for recruitment to the post of Medical Technologist (Lab) Grade-III in response to the Advertisement No. R/MT/01/2014 issued by the respondent no. 2. The applicant claims to have fulfilled the essential qualifications for recruitment to the post of Medical Technologist (Lab) Grade-III. The contention of the applicant is that the applicant had experience of working as Laboratory Technician for about 8 (eight) years in different spells under Government hospital and private diagnostic centre established under the provisions of West Bengal Clinical Establishment Rules, 2003. The grievance of the applicant is that the respondent no. 2 did not take into consideration the experience of the applicant for awarding marks and thereby the applicant is deprived of the opportunity to get appointment in the post of</p>	

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Medical Technologist (Lab) Grade-III.

Learned Counsel representing the applicant contends that the experience of the applicant as part-time Laboratory Technician in Medi-Lab Investigation Centre, Egra, Purba Medinipur should have been taken into consideration for awarding marks. He further submits that the applicant would have secured more marks than the marks obtained by the last selected candidate, had the experience of the applicant as part-time Laboratory Technician would have been taken into consideration by the respondent no. 2.

The state respondents have filed one status report in compliance with the direction given by the Tribunal and the same is placed on record. The distribution of marks at the time of interview of the candidates is disclosed in the said status report by the state respondents. The specific stand taken by the state respondents for not awarding marks on the experience of the applicant as part-time Laboratory Assistant is that the part-time work cannot be taken into consideration for awarding marks on experience and as such the applicant was not given any mark for experience as part-time Laboratory Technician.

It appears from the materials on record that the last selected candidate for appointment to the post of Medical Technologist (Lab) Grade-III obtained total

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marks of 65.50 in the unreserved category, whereas the applicant obtained total marks of 64.50 under the unreserved category. On perusal of norms for distribution of marks at the time of interview disclosed in the status report, we find that total marks for educational qualification of two year Diploma Course in Laboratory Technology recognised by the Government of West Bengal was 50 and additional 1 mark was given for obtaining marks from 50 to 55 and so on and upto maximum 10 marks. 15 marks were allotted for the candidate who had undergone one year training after acquiring diploma in Laboratory Technology recognised by the Government of West Bengal in any Government hospital or in any clinical establishment licenced under West Bengal Clinical Establishment Rules, 2003. Maximum 15 marks were also allotted for interview. Maximum 10 marks was allotted for experience with 2 marks for experience of each year either in State Government Service or service in any Private Institute recognised under West Bengal Clinical Establishment Rules, 2003. The applicant got 50 marks and additional 5 marks under the heading of Educational Qualification. The applicant did not obtain any mark for undergoing one year training after acquiring diploma in Laboratory Technology. The applicant also obtained 7.50 marks in the interview. However, the applicant obtained 2 marks out of total 10 marks under the heading of Experience. The applicant submitted 3 (three) certificates dated March 28, 2016, April 28,

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2016 and April 27, 2016 to establish his experience before the authority concerned. The experience certificate dated April 27, 2016 issued by the Proprietor of Medi-Lab Investigation Centre indicates that the applicant worked as part-time Laboratory Technician in the said Diagnostic Centre from the month of March, 2008 till April 27, 2016. By referring to information received by the applicant under the provisions of Right to Information Act, it is contended that the respondent no. 2 did not give any mark on the experience of the applicant for working at Medi-Lab Investigation Centre as the said Institute was not licenced under West Bengal Clinical Establishment Rules, 2003. The state respondents have categorically stated in the reply that the above information furnished under the provisions of Right to Information Act was not correct and the said information was given inadvertently and by mistake. The specific contention of the state respondents is that mark was not given to the applicant for his experience as Laboratory Technician for working in Medi-Lab Investigation Centre as the said experience was the experience of a part-time employee.

In our view, the experience for awarding marks should be the experience as a full-time employee. We do not find any merit in the submission made on behalf of the applicant that part-time experience of the applicant as Laboratory Technician in Medi-Lab Investigation Centre should have been taken into

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consideration for awarding marks.

On consideration of other 2 experience certificates submitted by the applicant, we find that the applicant worked as Laboratory Technician of RNTCP at Dakshin Damodarpur PHC in the district of Purba Medinipur from February 22, 2006 to April 31, 2007 (should have been April 30, 2007) and again he worked as Medical Technologist (Lab) under RCH on contract basis under Superintendent, Egra Sub-Divisional Hospital in the district of Purba Medinipur for the period from May 4, 2007 to March 19, 2008. On calculation of the above period of experience of the applicant in Government hospital, we find that the applicant had experience of more than 2 (two) years i.e. from February 22, 2006 to March 19, 2008 with a gap of 3 (three) days. The respondent no. 2 has taken into consideration experience of the applicant only for one year for awarding 2 marks, whereas the respondent no. 2 should have awarded 4 marks to the applicant for his experience of 2 years of service in Government hospital.

In view of our above observation, we would like to hold that the respondent no. 2 was not justified by not recommending the name of the applicant for appointment to the post of Medical Technologist (Lab) Grade-III. The applicant is entitled to get 2 more marks under the heading of Experience for rendering 2 years of service in Government hospital. If 2 marks are

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added to the total marks awarded to the applicant, the applicant would have obtained total marks of 66.50 which is more than the total marks of 65.50 obtained by the last selected candidate in unreserved category.

Accordingly, the respondent no. 2 is directed to recommend the name of the applicant for appointment to the post of Medical Technologist (Lab) Grade-III within a period of 8 (eight) weeks from the date of communication of the order.

With the above direction, the original application stands **disposed of**.

The urgent xerox certified copy of the order may be supplied to the applicant by giving priority on fulfilment of necessary formalities.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib