

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

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

Case No – OA 1316 OF 2015

NAYAN KUMAR RAY & 19 ORS. Vs The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p style="text-align: center;">8</p> <hr/> <p>08.08.2018</p>	<p>For the Applicant : Mr. A.K. Banerjee Advocate</p> <p>For the Respondents: Mr. G.P. Banerjee Advocate</p> <p style="text-align: center;">The original application being O.A. 1316 of 2015 is taken up for hearing. In this application, the applicants, stated to be unemployed persons and claiming to have requisite qualification for being appointed to the post of Health Assistant (Leprosy), have challenged the order dated 17th October, 2006 passed by the Director of Health Services, Government of West Bengal, respondent No. 2, whereby their claim for being appointed was turned down. Submission is challenging the said order an application, being O.A. 51 of 2007 (Md. U. Hossain & 34 Ors. vs. State of West Bengal & Ors.) was filed before the Tribunal which was disposed of by an order dated 23rd December, 2009 by directing the authority to consider the case for appointment of the applicants having regard to the empanelment if the situation became favourable. Submission is as they have come to know that appointments will be given, in view of the order dated 23rd December, 2009, appropriate direction may be given for appointments after condoning their age bar. On a query</p>	

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	<p>Mr. A.K. Banerjee, learned advocate for the applicant relying on the statements made in the applications submits that earlier the authorities were unable to give employment due to employment embargo.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits that the matter was filed on 22nd December, 2015 for having it admitted when the applicant No. 1 was 58 years of age. Thereafter, the matter was never mentioned. It was mentioned in the month of February, 2018. The matter came up in the list on 5th February, 2018 when it was dismissed for default. Subsequently an application for restoration was filed. By an order dated 23rd April 2018 the matter was restored. Since the applicants are not vigilant and the applicants have not been able to demonstrate that they are legally entitled to get appointed, no order be passed on this application.</p> <p>Heard learned advocates for the parties. It appears that the application was verified on 22nd December, 2015 when it was filed in the filing section of the Tribunal. On that day the applicant No. 1 was 58 years of age. Immediately thereafter the matter was not mentioned. During 2016 and 2017 the matter was not mentioned. It appears that it was first mentioned during 2018 for inclusion in the list for admitting the matter.</p>	

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SCN.	<p>As already seen, the matter came up in the list on 5th February, 2018 when it was dismissed for default. By order, dated 23rd April 2018 the matter was restored. We find that the applicants were not at all vigilant in exercising their rights. Had they been vigilant, they would have mentioned it in 2015 or in 2016 for admitting the matter. It is evident that the applicant No. 1 is now 61 years. The age of the other nine applicants have not been mentioned. Therefore, at this stage the recruitment process should not be intervened. Though the Tribunal by passing an order in a case filed by the applicants, being O.A. 51 of 2007 (Md. U. Hossain & 34 Ors. vs. State of West Bengal & Ors.), had directed the authorities that if situation becomes favourable and the posts are available for appointment applicants' case must be considered having regard to empanelment after condoning age bar, if any, delay of about three years in moving this application has jeopardised the prospects of the applicants. Moreover, from records it is not at all clear when the authorities decided to proceed with the appointments. In our view submissions are all on assumption. The statements in the application are not at all specific. Hence, for the reasons as aforesaid there is no merit in the application and is thus dismissed.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p>	<p>(Soumitra Pal) CHAIRMAN</p>