

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 173 OF 2018**

Chandrama Prasad @ Chandrama Prosad Verma & Anr. 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
02 <hr/> 19.06.2018	<p>For the Applicant : Mr. M. Karim, Mr. A. Samad, Learned Advocates.</p> <p>For the Respondent Nos. 5 & 6 : Mr. S. Ghosh, Learned Advocate.</p> <p>For the Other Respondents : Mr. G.P. Banerjee, Learned Advocate.</p> <p>The applicants have prayed for quashing of the Advertisement No. R/Lec-H/38(1)/1/2017 dated May 31, 2017 issued by the respondent no. 6, by which applications were invited from eligible candidates for recruitment to fill up 36 (thirty six) posts of Lecturers in West Bengal Homoeopathic Education Service under Department of Health & Family Welfare, Government of West Bengal.</p> <p>Mr. Karim, Learned Counsel for the applicants submits that the advertisement was published without following reservation policy of the State. He further submits that the applicants have not been given relaxation of age bar by the Government in compliance with the direction given by the Division Bench of Hon'ble High Court in the case of "Dr. Debabrata Kundu & Another v. State of West Bengal & Others" (WPST No. 246 of 2011 decided on December 12, 2011). He also submits that the recruitment process initiated on the basis of the advertisement dated May 31, 2017 has not been closed and as such the applicants may be</p>	

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permitted to participate in the said selection process.

Mr. Banerjee, Learned Counsel for the state respondents submits that the recruitment process initiated on the basis of the advertisement dated May 31, 2017 has already been closed and the deficiency in the previous advertisement pointed out by the Division Bench of the Hon'ble High Court in the case of "Dr. Debabrata Kundu & Another v. State of West Bengal & Others" (supra) has already been removed by increasing maximum age of recruitment for the post of Lecturer from 35 years to 40 years in the present advertisement dated May 31, 2017 along with provision for relaxation of age upto 5 years in case of exceptionally meritorious candidates with prior approval of the University. According to Mr. Banerjee, the applicants cannot be permitted to participate in the selection process which has already been closed.

The advertisement dated May 31, 2017 which is under challenge in the present application indicates that the last date for submission of online application is June 14, 2017. Admittedly, the applicants have not submitted online application before the last date i.e. June 14, 2017. On perusal of judgment of the Division Bench of Hon'ble High Court in "Dr. Debabrata Kundu & Another v. State of West Bengal & Others" (supra), we find that the Hon'ble High Court has observed in connection with the previous advertisement of the year

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<p>2008 that the relaxation of age bar for submission of application for the post of Lecturer is within the domain of the Government and the Court cannot intervene in this regard. The contention of the applicants is that the applicants submitted application before the Government for relaxation of age bar so that the applicants can submit online application for the post of Lecturer in response to the advertisement dated May 31, 2017, but the said application has not been considered by the Government. The Division Bench of the Hon'ble High Court has not given any direction to the Government for consideration of the application of the present applicants for relaxation of age bar. The question whether the order of the Division Bench of the Hon'ble High Court has been intentionally violated by the Government can be decided only by the Hon'ble High Court and not by this Tribunal. What is apparent from record is that the age limit for submission of application for the post of Lecturer in the advertisement of the year 2008 was 35 years with provision for relaxation of age upto 5 years in case of exceptionally meritorious candidates with prior approval of the concerned University, whereas in the present advertisement dated May 31, 2017, the age limit is prescribed as 40 years for recruitment to the post of Lecturer with provision for relaxation of age upto 5 years in case of exceptionally meritorious candidates with prior approval of the concerned University. The applicants did not submit any online application within</p>	
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last date for submission of such online application i.e. June 14, 2017, in spite of increasing the age limit for submission of application for the post of Lecturer. By following the decision of the Division Bench of the Hon'ble High Court in the case of "Dr. Debabrata Kundu & Another v. State of West Bengal & Others" (supra) which is affirmed by the Hon'ble Supreme Court of India in Civil Appeal No. 3325/2017 on August 29, 2017, we are of the view that further relaxation of age bar of the applicants for participation in the selection process for recruitment to the post of Lecturer is within the domain of the Government of West Bengal. Accordingly, this Tribunal cannot interfere in the advertisement dated May 31, 2017, particularly when the applicants did not submit any application within the last date for submission of online application and the selection process is almost closed.

In view of our above findings, we do not find any merit in the present application. The original application is, thus, **dismissed**.

The prayer for stay of operation of the order made on behalf of the applicants is refused.

Let a plain copy of this order be supplied to all the parties.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib

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