

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Officiating Chairperson & Member (A)

Case No. – OA-159 of 2023

Sandip Das. VERSUS – The State of West Bengal & Ors..

Serial No. and
Date of order

For the Applicant

:

Mr G. Halder,
Learned Advocate.

01
20.03.2023

For the State
Respondents

:

Mr. G.P. Banerjee,
Learned Advocate.

For the Private
respondent No. 4.

Mr. D. Banerjee,
Learned Advocate..

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties the case is taken up for consideration sitting singly.

Affidavit of service filed be kept with the record.

The prayer in this application is for setting aside the Notification dated 19.12.2003 relating to Recruitment Rule published by the Health & Family Welfare Department, Govt. of West Bengal.

Mr. D. Banerjee, learned advocate appearing on behalf of the private respondent no. 4 opposes the admissibility of this application after relying on :-

a) Section 21 of the Administrative Tribunals Act and on paragraph 7 of the Hon'ble Supreme Court Judgement reported in (2008) 8 SCC 648.

b) As per Section 20 and 21 of the Administrative

Tribunals Act supported by the above Apex Court Judgement, this application is barred by limitation.

Mr. G.P. Banerjee submits that since this application challenges a Rule framed by the Govt., Learned Advocate General has to be made a party.

Mr. M.N. Roy, in response, submits that the Learned Advocate General will be made party by serving a copy with the leave of the Tribunal.

Mr. Roy further submits that Section 20 & 21 will be applicable in this case because **vires** of the purported rule is being challenged for that there is no bar on limitation.

Mr. D. Banerjee, learned counsel states that even if any rule framed by the government is to be challenged in the Tribunal, Sections 20 & 21 of the Tribunals Act pertaining to limitation will be applicable. He submits that this application challenging the Rule, will not only affect the applicants but also impact the third parties in this application.

Let this matter be listed under the heading Admission Hearing on **20.07.2023**. Reply/rejoinder, if any, in the meantime.

sc

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)