

**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-173 of 2022**

**Dip Sarkar & Ors. VERSUS – The State of West Bengal & Ors..**

Serial No. and  
Date of order

For the Applicant :

Mr. G.P. Banerjee,  
Mr. A. Mitra,  
Learned Advocates.

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01.02.2023

For the State  
Respondents :

Mr. A. Ghosh,  
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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The prayer in this application is for setting aside the reasoned order passed by the respondent on 02.03.2022 in terms of the direction of the Tribunal passed in OA-169 OF 2021.

Briefly, the applicants moved the Tribunal since the advertisement issued by the respondent to recruit Medical Technologist (Lab) Gr.- II did not have a provision of allotting marks for experience in private institutions. Although, the same advertisement allowed up to 10 marks for those applicants having experience in government organisations. In the reasoned order, the respondent states that it is the prerogative of the respondent to determine the qualifying criteria for the applicants. It is also stated that the respondent authorities prefer candidates who have experience working in the government sector. Thus, the respondent by using its discretionary powers kept a provision of

giving 10 marks to those who have government experience.

Referring to the above submission of the respondent, Mr. Banerjee highlights a fact that for the similar post of which recruitment was conducted in the year 2018, there was a provision of up to 5 marks for those candidates having experience in the private sector. It is submitted that the respondent has violated the general principles of justice by refusing to allow additional marks as being allotted to those from government sector and thus creating a separate privileged class of applicants.

Mr. Ghosh appearing on behalf of the state respondent submits that the reason why no extra marks has been kept in the private sector candidates has been clearly expressed in the reasoned order. His submission is for vacating the interim order which was earlier passed by the Tribunal on 22.06.2022. The interim order had restrained the respondent from announcing the date of holding the selection process for the post of Medical Technologist (Lab) Gr. –II.

After hearing the submissions of the learned counsels, I am of the opinion that the selection schedule should not be hindered by way of an interim order. Therefore, the interim order of 22.06.2022 is modified to the extent that the respondents are allowed to announce the date of examination and conduct the selection process as per the schedule. Liberty is also given to the applicants to appear in the examination, however, the final result

of the applicants will be subject to the outcome of this application.

Let the matter appear on **23.08.2023** for Orders.

SAYEED AHMED BABA  
OFFICIATING CHAIRPERSON & MEMBER(A)

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