

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 423 of 2024.

SOUMYA KANTI BISWAS - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

02
12.12.2024

For the Applicant : Mr Santanu Das,
Mr. Sagnik Bhattacharya,
Advocates.

For the State Respondents : Mr. D. Koley,
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.

The applicant has prayed for setting aside the impugned order No. 30011 dated 4th March, 2024. The Special Secretary (AYUSH), Health & Family Welfare Department, cancelled the recommendation of the applicant, who was considered for the post of Ayurvedic Pharmacist on the ground of low percentage of disability as was the result of medical examination conducted by the competent authority. A copy of the report issued by the Medical Board shows the applicant became “.....*unfit on account of below bench mark disability. Cannot avail PH quota....*”. Let it be kept on record. Mr. Das, learned counsel appearing on behalf of the applicant draws attention to copy of a Disability Certificate issued by the District Hospital, Howrah dated 06.9.2014 in which 55 percent disability has been shown as permanent disability for the applicant. Mr. Das has also shown a copy of the Gazette Notification published by Ministry of Social Justice and Empowerment on 04th January, 2018 and emphasise on the below paragraph:-

“.....Validity of Certificate :- A Certificate issued at 18 years age will be valid lifelong.....”.

Submission of Mr. Das is that as clear from the certificate issued by the District Hospital, Howrah on 06.09.2014 to the applicant showing 55 percent disability, this certificate is valid lifelong.

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THE STATE OF WEST BENGAL & ORS.

On proper examination of this Notification, the Tribunal's attention is drawn to the heading of this Chapter in which that the above relevant sentence relied by Mr. Das, the Chapter in bold letters clearly mentions "**(iv) Intellectual Disability**", whereas the certificate presented by the learned counsel, the applicant is physically disabled. Therefore, in the opinion of this Tribunal, the Notification presented by Mr. Das showing the lifelong validity of the certificate pertaining to Intellectual Disability is therefore not relevant in this case.

Mr. Das is also of the opinion that the advertisement required an applicant to have 40 percent and above physical disability and such certificate should be from an "Appropriate Medical Board". His contention is that the certificate issued to the applicant by Howrah Hospital is a valid certificate.

Responding on behalf of the State respondents, Mr. Koley wishes to take instruction and submit on the next date of hearing on the question of whether the Medical Board which declared the applicant unfit is the appropriate Medical Board in terms of West Bengal Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation Rules, 1999).

In view of what Mr. Koley has requested, let this matter be listed on 24.01.2025 under the heading "Admission Hearing".

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A)

SkG/SM.