

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 – 637 of 2021

Sumodhur Banerjee - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mrs. S. Mitra, Advocate
<u>15</u> 29.01.2025	For the Respondents	: Mr. G.P. Banerjee, Advocate

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

By filing this application, the applicant prayed for a direction to the respondent authorities to appoint him in the post of Inspector of Drugs. Such an advertisement for recruitment for the post of Inspector of Drugs was published on 22.02.2016 by West Bengal Health Recruitment Board. Though the applicant participated in all the selection process but eventually was not recommended for selection.

While examining the papers in this application, the Tribunal's attention was drawn to a representation filed by the applicant before the respondent authorities dated 8th March, 2021. In the said representation, apart from agitating that the distribution of marks system as fixed by the Board in its 96th meeting had changed the rules of the game, the applicant assumes that he had scored more marks, more than the writ petitioners' viz. Avijit Das, Suman Goswami and Bhaskar Das. As learnt from the submissions of the learned counsels, the three named persons were given appointment in the same post in terms of a direction of the Hon'ble High Court.

As evident from the RTI's reply, the applicant scored a total of 81 marks. In terms of a direction of the Hon'ble High Court in WPST – 120 of 2018, the total mark was reduced from 100 to 85. The applicant now having scored 81 marks comes within the zone of consideration. Mr. Ali, learned counsel had submitted that these five persons in favour of whom the Hon'ble High Court had passed a direction for appointment were below the applicant in the merit list earlier published by the Health Recruitment Board. Submission is that since the applicant scored 81 marks and is within the zone of consideration and since his seniority in the merit list is above the three petitioners who have been offered appointment by a direction of the Hon'ble High

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Court, therefore, this applicant is also entitled to be offered an employment as Inspector of Drugs.

Mr. G.P. Banerjee, learned counsel had submitted that this application is not maintainable on the ground that the entire selection process for the post of Inspector of Drugs was completed in the year 2018 and since then all the successful candidates have been given appointment and no vacancy lies for this post any more. Mr. Banerjee had also drawn attention to a relevant remark made by the Hon'ble High Court in WPST – 120 of 2018 in which the Court had restrained itself from interfering with the entire selection process. Submission is that once the Hon'ble High Court decided not to interfere with the selection process which in any way has been completed, it would not be appropriate for this Tribunal to interfere in the said selection process.

Having heard the submissions of the learned counsels and considering the documents in this application, the Tribunal has gained this impression that the applicant is a fence sitter who having heard of the favourable orders passed by the Hon'ble High Court in WPST 120 of 2018 approached this Tribunal for a similar direction. The applicant was not a petitioner in WPST 120 of 2018, in which a direction was given to appoint three petitioners to the post of Inspector of Drugs. The Hon'ble High Court also made it clear in its order that it would not interfere with the selection process as a whole in the following words:

“Be it placed on record that we have resisted ourselves from interfering with the selection process as a whole since the private respondents have already been appointed and working as inspectors of drugs for quite some time, and also that because there are vacancies where petitioners 1, 3 and 4 can be accommodated”.

From the words of the direction cited above, it is clear that Hon'ble High Court did not wish to interfere further in the selection process. The applicant cannot rely on the above mentioned order and argue that he should also be given such an appointment since his score of 81 is higher than the petitioners in WPST 120 of 2018. The case of the petitioners cannot be made the reference point by other unsuccessful candidates and claim similar benefit since they were not the litigants in the case before the Hon'ble High Court. Further, it is also to be kept in mind that the entire selection process was completed in the year 2018 and all the successful candidates have been given

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appointment and no further vacancy lies for this post.

In view of the above observations, the Tribunal does not hesitate in disposing of this application which is devoid of any merit without passing any orders.

**SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)**

A.K.P