

ORDER SHEET

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 – 840 of 2023

Md. Hafizur Rahaman - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mr. G.P. Banerjee,
and Advocate

Date of order
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11.12.2024 For the Respondents : Mrs. S. Agarwal,
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.

In the earlier round of litigation, the applicant had ventilated his grievance that due to error on part of WBHRB, he was awarded only 75.5 marks whereas it should have been 80.05 marks. Such calculation was based on the reply given by S.P.I.O. The Tribunal had directed the respondent authorities to consider the representation of the applicant mentioning such calculation errors and recommend the name of the candidate, if the applicant is found eligible. In terms of such direction, the respondent authority passed the reasoned order which did not accept the contention of the applicant that there was any error in the calculations and the applicant's marks of 75.5 stands as the correct marks.

After close examination of this reasoned order, it is understood that no separate marks for experience was allotted to the applicant on the ground that the academic score is inclusive of the experience. The applicant was awarded 69.5 inclusive of the experience. The reasoned order also cited a resolution No. 163 of the Board Meeting dated 31.08.2021, by which the marks obtained by the candidate in his graded BHMS were considered. So, from the grounds given in the reasoned order, the total marks obtained by the applicant under the following categories is as:

- (i) Academic score including the experience --- 69.5 marks
- (ii) Interview --- 6 marks

Total --- 75.5 marks.

Having obtained only 75.5 marks, the candidate was not found eligible to be recommended for the post of Homeopathic Medical Officer.

Mrs. Agarwal, learned counsel appearing on behalf of the State respondent has

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also submitted on similar lines as given in the reasoned order.

However, Mr. Banerjee, learned counsel argues that the resolution No. 163 relied on by the respondent authority came into force on 31.08.2021, much later than the date of the advertisement. Therefore, such resolution cannot be the ground for deciding a matter relating to the recruitment process whose advertisement was published on 20.12.2019. Mr. Banerjee also argues that the applicant's interview was also held on 29.12.2020, much before the resolution was passed. He relies on a Supreme Court judgement (2008) 3 SCC 512.

Tribunal is also not convinced with the argument of the respondent authority that the academic score includes the experience part. In the reasoned order as narrated above, the applicant was shown as having obtained 69.5 which included the academic score as well the experience. Such unconvincing reason is not in tune with the advertisement itself, which shows maximum marks of 75 against qualification for having a qualification of the Bachelor of Homoeopathic Medicine and Surgery (B.H.M.S.). This is followed by column 3, which is titled as, "other experiences in Homoeopathy from any Government Institution or Government valid organisation." Under this category, a total of maximum 5 marks has been kept, with one mark for each completed year. The RTI reply given to the applicant also shows the applicant having received 5 marks for his experience. Therefore, the contention of the Board that the academic score includes experience does not appear to be a valid argument.

Mrs. Agarwal wishes to clarify the above points after taking instructions.

Let the matter appear "For Orders" on 23.12.2024.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P