

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

HON'BLE JUSTICE SOUMITRA PAL, HON'BLE CHAIRMAN.

Case No. – OA 128 of 2021.

CHANDRA KANTA RAY & OTHERS - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	: Mr. G.P. Banerjee, Mr. G. Halder, Advocates.
<u>2</u> 10.3.2021	For the State Respondents	: Mrs. S. Bandyopadhyay, Advocate.

The matter is taken up by the single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020 issued in exercise of the powers conferred under sub section (6) of section 5 of the Administrative Tribunals Act, 1985.

Affidavit of service filed today be kept on record. In view of the urgency the matter is taken up for hearing under the heading “Admission Hearing”.

In this application, the applicants, Medical Technologists (Lab) Grade-III at Government Hospitals on contractual basis, have prayed for a certain reliefs, the relevant portion of which is as under :-

“ a) A direction do issue upon the concerned respondent authorities, particularly the Secretary and Controller of Examinations, West Bengal Health Recruitment Board, the respondent no. 3 herein, to forthwith relaxing the upper age limit allow your applicants to participate in selection process for recruitment to the posts Medical Technologist (Lab) Gr-III pursuant to Advertisement being No. R/MT(VARIOUS)/02/2021 dated 21.01.2021 as and when it commences.

b) A direction do issue directing the respondent authorities specially the respondent no. 3 herein to accept hard copy of the application and thereafter allow them to participate in the selection process.... ”.

It is submitted by Mr. G.P. Banerjee, learned advocate appearing on behalf of the applicants, that in view of the law laid down

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in Gobinda Chandra Mondal Vs Principal Rabindra Mahavidyalaya; 2013 (1) CHN (CAL) 9, and ground no. (XVI), the applicants are entitled to participate in the selection process after condoning the age bar and interim order may be passed as the respondents had accepted the applications in hard copy format in between 3rd February, 2021 and 6th February, 2021 as evident from pages 65 to 84.

Mrs. S. Bandyopadhyay, learned advocate for the State respondents submits that since the applicants are already over aged and the age is only relaxable for exceptionally qualified persons which the applicants have not been able to demonstrate in the application, matter may not be admitted. Submission is the issue in Gobinda Chandra Mondal (supra) is different from the question involved in this application. In this regard she has relied on the judgement passed on 23rd July, 2018 in W.P.S.T. No. 53 of 2018; The Chairman, Public Service Commission, West Bengal Vs. Palash Kumar Samanta & Ors wherein it has been held that age bar cannot be condoned.

Heard learned advocates for the parties. In view of the statements made in ground no. (XVI) of the application and as the applications of the applicants have been accepted, in my view a prima facie case has been made out for passing an interim order. Therefore, let there be an interim order directing the respondents that if the selection process is undertaken, the applicants will be allowed to participate, however, the mark sheets and answer scripts shall be kept in sealed cover and the result shall not be published without the leave of the Tribunal. It is made clear that this order will not create equity in favour of the applicants.

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Let reply be filed by 7th May, 2021. Rejoinder, if any, by 19th May, 2021. Matter to appear under the heading “Reply, rejoinder and Objection” on 7th June, 2021.

(SOUMITRA PAL)
CHAIRMAN

Sk.