

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Sayeed Ahmed Baba, Administrative Member

Case No. - OA 13 OF 2022

Tania Chatterjee & Anr. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

03
01.02.2022

For the Applicant

: Mr. Kumarjyoti Tewari,
Mrs. Rajlakshmi Ghatak,
Mr. Anniruddha Tiwari,
Advocates

For the State Respondents

: Mr. Gautam Pathak Banerjee,
Advocate

For the Private Respondent Nos. 8, 10 to
14, 16 – 24, 26-28, 30-34, 37-43, 45-68,
70-85, 87-92, 94-96, 98-100, 103, 106,
108 and 109

: Mr. Usuf Ali Dewan,
Mr. Sourav Bhattacharya,
Mr. Asif Dewan,
Advocates

This application has been filed by Tania Chatterjee and Shrabani Rana Khan, the applicants, praying for certain reliefs, the relevant portion of which is as under:

- “a) To direct the respondent authorities and each one of them to produce the relevant records in respect of the advertisement no. R/HMO./78(1)/1/2019 published by West Bengal Health Recruitment Board on 20.12.2019 on the basis of which Notification No.HF/O/AYUSH/16/3H-127/17 dated 7th January, 2022 issued by Secretary and DG (AYUSH), Government of West Bengal intending to give provisional appointments of 237 candidates to the West Bengal Homeopathic Health Service;*
- b) To set aside and/or quash the purported Memo*

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No. HAD / 10M-03-2019/MB/550 dated 07.12.2021 issued by respondent no.6 and Notification dated 07.01.2022 under Memo No.HF/O/AYUSH/16/3H-127/17 issued by respondent no.7;

- c) *To direct the respondent authorities to follow the Recruitment Rules as issued by the West Bengal Health Recruitment Board on 20.12.2019 and prepare the merit list as per law following such Recruitment Rules and give appointment from such merit list;*
- d) *In the alternative, directing the respondents to give appointments to the applicants as Homeopathic Medical Officer under West Bengal Homeopathic Health Service under Department of Health and Family Welfare, Government of West Bengal;”*

It appears the applicants had participated in a selection process for the posts of Homeopathic Medical Officer under West Bengal Homeopathic Health Service under the Department of Health and Family Welfare, Government of West Bengal.

It is submitted by Mr. Kumarjyoti Tiwari, learned advocate for the applicant that though the applicant nos. 1 and 2 secured 81% and 82% respectively, they have not been selected though the candidates securing 73% and 75% marks have been selected. Secondly, though initially these private respondent nos. 108 and 109 were shown in the PWD category, they have been appointed in general category. Hence the selection process be cancelled.

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Heard Mr. Gautam Pathak Banerjee, learned advocate for the State respondents and Mr. Usuf Ali Dewan, learned advocate for the private respondents.

In order to appreciate the issue it is relevant to set out paragraphs 4 and 5 of the application which is as under:

“4. That on 07.12.2021, under Memo No. HAD/10M-03-2019/MB/550, the respondent no.6 issued a notice publishing list for selected candidates. On 07.01.2022, another list was published under Memo No. HF/O/AYUSH/16/3H-127/17 by the respondent no.7 and 237 candidates were provisionally appointed. The applicants have gone through the list dated 25.11.2021, 07.12.2021 and 07.01.2022 respectively issued by the respondent authorities, found some serious irregularities and abnormalities in those lists. The applicants know many of the candidates personally and they are aware of the qualifications of those candidates. Serial No.25 of the final joining list does not have any experience towards house staff ship. Serial No. 224 and serial no.229 were selected as PWD candidate in the list dated 25.11.2021 but in the final list published on 07.01.2022 they were treated as unreserved candidates. Serial No.224 Tania Bhattacharya scored 75 marks in the selection and her date of birth is 20.08.1976 (above 40 years) and serial No.229 Nirmal Bari scored 73 in the selection of homoeopathic medical officer by the West Bengal

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Health Recruitment Board. For unreserved category cut off mark was 82.5 and persons who scored 73 and 75 respectively as stated above cannot be treated in the unreserved category. Some of the candidates did not do any house staff ship, some of the candidates who were selected in PWD category but were appointed in general category though they do not match the upper age limit, cut off marks and other criterion for unreserved categories were provisionally appointed on 07.01.2022. The entire selection process is based on extraneous consideration and same would be evident from the news published by a Bengal News Channel.

The applicants crave leave to refer such video at the hearing of this application to substantiate the same.

Copies of the Memo No. HAD/10M-03-2019/MB/550 dated 07.12.2021 and Notification dated 07.01.2022 under Memo No. HF/O/AYUSH/16/3H-127/17 are annexed herewith and marked collectively with letter- 'D'.

5. That the respondent authorities have acted as per their own wish and did not follow their own recruitment rules published under Memo no. R/HMO./78(1)/1/2019 on 20.12.2019. At the time of interview, Dr. Tania Chatterjee, the applicant no.1 completed her MD course and certificate was shown to the authority. As on the date of advertisement, the

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applicant no.1 completed her one year House Staffship, part of MD Course. During MD Course, there is one year of house staff ship and inspite of that applicant no.1 was not given full marks (5 Marks) in the selection process. Applicants state that had such marks be given to the applicant no.1, she would have scored 83.5 more than the cut of marks and would have been easily selected. If documents are called for then it can be seen that the respondents have flouted their own rules in selecting candidates. The candidates who do not have any experience towards house staff ship were given marks for house staff ship. It was clearly stated in the advertisement dated 20.12.2019 that experience of Medical Officer (MO), AYUSH under RBSK (Rastriya Bal Sasthya Karikram) will not be considered as experience but records will reveal that candidates with experience of Medical Officer (MO), AYUSH under RBSK (Rastriya Bal Sasthya Karikram) were given full marks i.e. 5 marks in violation of Recruitment Rules. Admittedly, recruitment rule was not followed by the authorities for the reason best known to them. For the unfair and illegal approach of the respondent authorities, genuine candidates like the applicants are suffering. It is apparent that unequals have been treated equally and entire selection process is a farce as would be evident from the records itself.

A copy of the MD Brochure, MD Mark sheet and certificate of the applicant no.1 are annexed hereto

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and marked with letter 'E'.

(Emphasis supplied)

Evidently the allegations made in the application are not specific and vague as evident from paragraphs 4 and 5 of the application as set out hereinabove. The applicants have not explained how the entire selection was carried out on extraneous consideration. Moreover they have relied on the news published in a Bengali news channel which cannot be the foundation of the pleadings. Pleadings are couched in a manner as if the application is a public interest litigation. Hence, the application is dismissed.

SCN.

(SAYEED AHMED BABA)
MEMBER (A)

(SOUMITRA PAL)
CHAIRMAN