

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

Case No. - OA 156 of 2021

Satyajit Mondal - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. D. Kundu, Advocate.
	For the State respondents	: Mr. G.P. Banerjee, Advocate.
<u>2</u> 13.08.2021		

The matter is taken up by the single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020 and 456-WBAT/2J-15/2016 dated 16th July, 2021 issued in exercise of the powers conferred under sub-section (6) of Section 5 of the Administrative Tribunals Act, 1985.

In this application, Satyajit Mondal, the applicant has prayed for certain reliefs, the relevant portion of which is as under :-

“a) To pass an appropriate order directing the respondent authority notice advertisement being Advertisement No. R/MT/Phar./Physio./82/4/2019 should not be quashed and/or set aside as the notice has been issued by the respondent authority violating Article 14 & 16 of the Constitution of India.

b) To pass a mandatory order directing the respondent authority to accept the experience certificate and award marks with respect of experience of the applicant from non Govt. service.”

Mr. D. Kundu, learned advocate for the applicant challenging the advertisement annexed to the application submits that since it is evident from the application form that the authorities had sought for working

Form No.

Case No. **OA-156 of 2021**

Vs.

The State of W.B. & Ors.

experience in the concerned subject in Government sector as well as in the non-Government sector and as the applicant had filled up the form accordingly by putting his experience in the non-Government sector, the action of the respondents in not considering the experience of the applicant in the private sector, as evident from page 31 of the application, is harsh and arbitrary. On a query it is submitted that the applicant was not aware of the advertisement, being annexure 'E' to the application containing the distribution pattern of marks of which he came to learn at a later date.

Mr. G.P. Banerjee, learned advocate, appearing on behalf of the State respondents submits that since the advertisement does not seek for experience in the private sector, the application has no merit.

Heard learned advocates for the parties. There is no dispute that pursuant to the advertisement for the post of Physiotherapist Grade III, being annexure 'E' to the application, the applicant had applied for the post. There is no dispute that the distribution pattern of marks for the post of "Physiotherapist Grade III" in column C provides for "Experience in State Govt. service (Permanent/Contractual)-02 marks/year:-10(Max.)".

Assuming the applicant had filled up the form, being annexure 'C' to the application, however, it is the advertisement which regulates the entire selection process. Though the form contained a column regarding working experience in the non-Government sector, however, it cannot override the stipulations in the advertisement regulating the selection process. The examiners award marks on the basis of the directions

ORDER SHEET

SATYAJIT MONDAL

Form No.

Case No. **OA-156 of 2021**

Vs.

The State of W.B. & Ors.

and/or stipulations in the advertisement. Evidently, the applicant had no working experience in the Government sector. Thus, no order can be passed on the application. The application is disposed of.

Since for circumstances beyond control the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

(SOUMITRA PAL)
CHAIRMAN

Rajib