

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,**

**Case No. – OA 219 of 2023**

**SUDIPTA DAS & OTHERS - Vs - THE STATE OF WEST BENGAL & OTHERS.**

Serial No. and  
Date of order

For the Applicant : Mr. P.Saha  
Advocate

05  
22.06.2023

For the State respondents : Mr.A.K. Das Sinha  
Advocate

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

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The primary prayer in this application is for setting aside the Advertisement No. R/Ayurvedic Pharmacist/7/2023 published on 14.03.2023 by the West Bengal Health Recruitment Board for the post of Ayurvedic Pharmacist. From the submissions of the learned counsel and the prayers in the application, it appears that the respondent department has not included Degree of Bachelor of Pharmacy (Ayurveda) as a required qualification. The said advertisement, however, allows certificate/diploma holders in Ayurvedic Pharmacy to participate in the recruitment examination. Mr.P.Saha, learned counsel for the applicants submits that it is not understood why the degree holders of having completed the Bachelor's Course of 4 years from reputed Institutions like Jadavpur University have not been allowed to participate in this examination. On the other hand, those who are only diploma or certificate holders in the same Ayurvedic Pharmacy have been allowed to participate in the recruitment process for the post of Ayurvedic Pharmacist. Mr.Saha also submits that the applicants are not only Bachelor holders from Jadavpur University but also fulfil other

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criteria as mentioned in the advertisement. For this reason, the applicants in this application could not submit their online applications within the due date of 31.03.2023. Prayer is that this advertisement is not fair to the degree holders, therefore, a direction may be given to the respondent authorities to allow them to participate in the recruitment examination.

In response to the above submission, Mr.A.K.Das Sinha, learned counsel appearing on behalf of the respondent authority submits that the said advertisement was issued on the basis of the recruitment rule and the same has also been mentioned in the advertisement. The Recruitment Rule as mentioned in the advertisement was issued vide Notification No. HF/O/AYUSH/108/1A-01/18 dated 15.02.2021.

Therefore, Mr.Das Sinha submits that the respondent authorities have followed the rule and criteria laid down in the above recruitment rule framed by the State Government. Further, Mr.Das Sinha also submits that on a similar matter, earlier the Tribunal in OA-1137 of 2013 considered and rejected the prayer of the applicant in that application.

After hearing the submissions of the learned counsels and perusing the records, the Tribunal has observed that firstly, the advertisement for recruitment to the post of Pharmacist was invited from those candidates who have passed two years certificate or Diploma Course in Ayurvedic Pharmacy from a recognised Institution.

Secondly, the applicants in this application are degree holders of Bachelor's course of four years.

Thirdly, the recruitment rule issued by Notification dated 15.02.2021 for the post of Pharmacist (Ayurvedic), mentions one of the eligibility criteria as "Passed 2 (two) years certificate/Diploma Course in

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Ayurvedic Pharmacy from a recognised institution.”

Fourthly, in this application, the applicants have prayed for setting aside the advertisement, but not the recruitment rule per se.

Based on the above observations, it is the opinion of the Tribunal that the respondent authority has followed stipulations of criteria laid down in the recruitment rule, therefore, they were correct in inviting applications from candidates holding Diploma/certificates. Since the recruitment rule did not permit recruitment of four years degree holders, the question of allowing them to participate in the recruitment process does not arise. Therefore, it is not the mandate of this Tribunal to interfere in the recruitment process by directing the respondents to change the recruitment rule, which is a policy matter and direct the respondents to allow the applicants who are degree holders to participate in the recruitment process, who otherwise are ineligible as per the advertisement. Therefore, the application is disposed of without any orders.

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

BLR