

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 270 OF 2022

SUKANTA DE & 6 ORS. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and

Date of order

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02.05.2022

For the Applicants : Mr. Gaurav Haldar,
Mrs. Subarna Das,
Advocates

For the Respondents : Mr. Gautam Pathak Banerjee,
Advocate

Since despite of service of notice, none appears on behalf of the State respondents, Mr. Gautam Pathak Banerjee, learned advocate, who normally appears on behalf of the State respondents, is requested to appear in this matter. Let a copy of the original application be served on Mr. Banerjee, which is served and accepted. The learned Legal Remembrancer, West Bengal is directed to regularise the appointment of Mr. Banerjee.

In this application, seven applicants, - who are contractual staff and working as Homoeopathic Pharmacists, have prayed for 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.5 herein, to forthwith relaxing the upper age limit allow your applicants to participate in selection process for recruitment to the posts Homoeopathic Pharmacist pursuant to Advertisement being No. R/HP/19/2022 dated 19.04.2022.

(b) Pass an appropriate order or direction commanding the respondents and each of

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*them and / or their competent authorities,
more particularly the respondent no.5 to
forthwith.”*

It is submitted by Mr. Gaurav Halder, learned advocate for the applicants since the applicants are working for long and in the advertisement for recruitment of Homoeopathic Pharmacist, issued by the West Bengal Health Recruitment Board, there is no scope for the applicants to participate in the selection process, reliefs as prayed for may be passed. In support of his submission Mr. Halder has relied on a judgement in Gobinda Chandra Mondal vs. Principal, Rabindra Mahavidyalaya : 2013(1) CHN (CAL) 9 particularly, paragraph 25 thereof.

Mr. Banerjee, learned advocate for the State respondents submits that the reliefs as prayed for may not be granted as the Tribunal cannot usurp the jurisdiction of the State respondents with regard to fixation of upper age limit to participate in the selection process.

Mr. Halder in reply submits that since the applicants are working for long the applicants may be given a chance to participate in the selection process and leave may be granted to file representation ventilating their grievances.

It appears the applicants are contractual staff working as Homoeopathic Pharmacists. Advertisement has been issued for inviting applications for participating in the selection process for appointment of Homoeopathic Pharmacists. The maximum age has been fixed. It appears that the applicants are over-aged. They seek to participate in the selection process which is being held for the first time as submitted by Mr. Halder.

Having heard the learned advocates for the parties and as prayed for by

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Mr. Haldar, the application is disposed of by granting liberty to the applicants to file representation collectively, ventilating their grievances before the Secretary and Controller of Examinations, West Bengal Health Recruitment Board, Kolkata, the respondent no.5 by 11:30 AM on 5th May, 2022. If representation is filed within the date and time stipulated, the respondent no.5 shall dispose of the same by passing a reasoned order to be communicated to the parties within the same day by giving an opportunity of hearing to the applicant no.1, who will appear on behalf of the other applicants or any one of the applicants as authorised by the applicant no.1. The reasoned order shall be passed on the same day and shall be communicated to the applicants.

SCN.

Learned advocates for the parties are permitted to take down the gist of this order for communication and the respondent no.5 shall act on the basis of such communication.

(SAYEED AHMED BABA)
MEMBER (A)

(SOUMITRA PAL)
CHAIRMAN

WEST BENGAL ADMINISTRATIVE TRIBUNAL