

**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 286 of 2023**

**Madhusudan Dasgupta & Ors. - Vs - THE STATE OF WEST BENGAL & OTHERS.**

Serial No. and  
Date of order

02  
05.12.2023

For the Applicant : Mr. A. Biswas,  
Learned Advocate.  
For the State Respondents : Mr. G.P. Banerjee,  
Learned 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 23rd 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.

In this application the applicants have prayed for a direction to the respondents to allow the contractual employees eligible for benefit of age relaxation in the selection process for recruitment to the post of Assistant Superintendent (Non-Medical) Gr.- II.

Submitting on behalf of the applicants, Mr. Biswas draws attention to the set of advertisements appearing from page 36 onwards, in particular reference is made to Note 6 at page 37. The Note mentions that apart from regular government employees, contractual workers are also allowed for age relaxation, provided they submit a certificate from the appropriate authority. Similar advertisement was also released for the same post and on the same day for age relaxation in which the word “**CONTRACTUAL**” has been omitted. Thus, it is implied that age relaxation is admissible only for regular government employees and not for contractual workers.

Submission of Mr. Biswas is that by releasing the second set of

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advertisement on the same day for the same post, the authorities have arbitrarily disallowed the contractual workers to avail age relaxation. Therefore, this being violative of natural justice, and the operation of this advertisement be suspended.

Submitting on behalf of the respondent, Mr. Banerjee, however, submits that to allow or not to allow contractual workers the benefit of age relaxation is the sole prerogative of the Government and this being a policy matter, the Tribunal should not intervene.

Reference is also made to the reasoned order passed on 03.01.2023 passed by the Secretary and Controller of Examinations, West Bengal Health Recruitment Board in which particular attention is drawn to 3<sup>rd</sup> Para of the reasoned order appearing at page 73 of the application in which it is stated that the applicants being contractual employees itself undertakes that they are not govt. employee and such age relaxation benefit is not available to them.

By not allowing the contractual workers to avail this age relaxation, Mr. Biswas feels that this is not only discriminatory among govt. employees but it is also violative Article 14 of the Constitution of India.

The matter is admitted.

Let the matter appear under the heading for Orders on **16. 05.2024.**

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

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