

**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 288 OF 2023**

**DR. SK. MOHAMMAD ISMAILE - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. For the Applicant : Mr. Saurav Bhattacharjee,  
and Learned Advocates  
Date of  
order

For the State Respondents : Mr. Debabrata Kole,  
Learned Advocate

10  
04.09.2025

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.

1. The prayer in this application is for setting aside the impugned order dated 23.02.2023 passed by the respondent No.6 rejecting the claim of the applicant for granting 4 marks for the experience category.

2. The applicant was appointed as a Medical Officer (School Health) vide Memo No. H/SFWB/20P-03-2012/2198 dated 28.12.2012 by the Executive Director, WBH&FW Samiti on contractual basis in consequence to the Advertisement No. R/HMO/78(1)/1/20198 dated 20.12.2019.

3. The applicant has alleged that he has not been awarded 4 marks in 'experience' category.

4. In terms of a direction of this Tribunal in OA 21 of 2022, the Secretary and Controller of Examinations, West Bengal Health Recruitment Board was advised to consider the representation of the applicant and pass a reasoned order. Such a reasoned order was passed which is being assailed before this Tribunal in this application.

5. The core issue revolving around this matter is whether the certificate of experience submitted by the applicant deserves to be given four (04) marks in terms of the advertisement published for recruitment to the post of Homoeopathic Medical Officer. The reasoned order did not accept the Certificate of Experience given by the BMOH on the ground that the BMOH of Raina-II Block, Purba Bardhaman is "not proper as the BMOH is claiming to have given him appointment as Homoeopathic Medical Officer are done by proper Government authority which in this case is not followed. The BMOH on

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his own cannot give such appointments.”

6. To understand what the reasoned order refers to such an appointment given to the applicant as Homoeopathic Medical Officer by the BMOH, attention is drawn to Memo. No. 46 dated 14.01.2013. After perusal of this document, it is clear and not disputed by Mr. Kole that this appointment letter was issued to the applicant by the CMOH and Secretary, District Health and Family Welfare Samity, Bardhaman and not the BMOH. This fact of the reasoned order erroneously stating that the BMOH issued an appointment letter is not disputed.

7. The candidates were to hold a Bachelor's Degree in Homoeopathy from a recognized university or institute as included in the second schedule of the Homoeopathy Central Council Act, 1973 and they were also to have the ability to speak, read and write Bengali.

8. The advertisement mentions recruitment process and in serial No.3 of the table “Corrigendum Tentative Marks Distribution in the recruitment of Homoeopathic Medical Officer by West Bengal Health Recruitment Board” it has been mentioned that maximum 5 marks (1 mark for each completed year) is to be awarded for experience in Homoeopathy from any Government Institution or Government affiliated organisation.

9. According to the applicant he has given service at Madhabdihi State Homoeopathic Dispensary for 4 years and, as such, in accordance to the advertisement he is entitled to an extra 4 marks for his experience.

10. The applicant was awarded 78 marks though he ought to have been awarded  $78+4 = 82$  marks.

11. The applicant had put in a representation before the competent authority / respondents which was turned down.

12. The reasoned order dated 23.02.2023 has rejected the representation of the applicant on two-fold grounds. First, the applicant had not submitted proper experience certificate and second, “the experience certificate issued by the then BMOH of Raina-II Block, Purba Bardhaman is not proper as the B.M.O.H. is claiming to have given him appointment as Homoeopathic Medical Officer on his own which is not legal..... The BMOH on his own cannot give such appointment”.

13. Having heard the learned counsels and after examination of the documents available on record, the Tribunal finds that the applicant was appointed as Medical

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Officer (School Officer) by the competent authority and not by the B.M.O.H. as made out in the reasoned order. Thus, the reason set out in the reasoned order is incorrect at the fact of it. Accordingly and consequently, the other objection raised by the respondent that the applicant has not filed 'proper' experience certificate also fails. The certificate of experience though issued by the B.M.O.H. cannot be rejected since the appointment was made in due process as is apparent from the documents dated 14.01.2013 and 28.12.2012. The applicant fulfils the criteria of "experience in Homoeopathy from any Government Institution or Government affiliated organisation" as was required in the advertisement.

14. In view of the above observation, the impugned reasoned order dated 23.02.2023 is not tenable and is liable to be set aside and the same is set aside. Since the Tribunal finds sufficient merit in the prayer of the applicant and he is entitled to be awarded extra marks for the years of experience in accordance to the advertisement, this application is disposed of by directing the respondent No.6, the Secretary and Controller of Examinations, West Bengal Health Recruitment Board to take a decision in the matter by considering the representation of the applicant afresh after giving an opportunity of hearing to the applicant and dispose of the same as per rules and in the light of the above observations within a period of eight weeks from the date of communication of this order.

(SAYEED AHMED BABA)  
OFFICIATING CHAIRPERSON  
and MEMBER (A)

SCN.