

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA 332 of 2024

Dr. Ushasi Ghosh Chaudhury-- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. M.N. Roy,
Mr. G. Halder,
Ld. Advocates.
For the State Respondents : Mr. R.K. Mondal,
Ld. Advocate.
For the Respondent No. 5 : Mr. A.K. Bera,
Ld. Advocate.

03
22.01.2025

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 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has prayed for setting aside the impugned order passed by the Special Secretary (AYUSH), Health and Family Welfare Department dated 06.03.2024. Earlier the West Bengal Health Recruitment Board had recommended the name of the applicant for the post of Senior Ayurvedic Medical Officer (SAMO). However, the Health and Family Welfare Department in its order dated 06.03.2024 cancelled her candidature for the post assigning the following reason:-

".....At the time of recruitment process, she was not registered under Paschim Banga Ayurved Parishad....."

Representing the applicant, Mr. M.N. Roy, learned counsel first draws my attention to the advertisement published by the Board dated 12.12.2022. This advertisement showing a total 17 posts for Senior Ayurvedic Medical Officer under UR category required the candidates, besides fulfilling other eligible criteria, to have been registered either in Part A of the State Registrar of Ayurvedic Medical Practitioner maintained by the Paschim Banga Ayurvedic Parishad or in Part I of the Central Registrar maintained by the Central Council of Indian Medicine. The last date of submission of online being 12.12.2022, the advertisement clearly required the candidates to show their valid registration on or before the last date of submission of application.

Mr. Roy has submitted that by a Gazette of India Notification dated 16.02.2022, the National Commission for Indian System of Medicine Act, 2020 (NCISM) came into force replacing the Central Council of India Medicine (CCIM) Regulation, 1986. Submission is that after enactment of this Act, the candidates were now required to be registered under NCISM. Attention has been drawn to a document of NCISM in which the name of the applicant is shown as serial no.

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1700 having NCISM registration no. NR/AY/WB/0001700. Such registration with NCISM was on the basis of her registration with the Paschim Banga Ayurvedic Parishad having registration no. 12219 dated 02.05.2014. It is also submitted that the applicant relinquished the Parishad certificate after registering herself with Maharashtra Council of Indian Medicine, Mumbai. Her Maharashtra certificate registration is dated 13.04.2022.

Having brought the facts of this case in the submission as recorded above, Mr. Roy submits that the Respondent authorities were wrong in rejecting the applicant's case on the ground she did not possess a certificate of registration with Paschim Banga Ayurvedic Parishad. On the day she filled her application for the post of SAMO. Mr. Roy emphasises the fact that the Respondent authority completely ignored the fact that the advertisement had given the option of registration either with Parishad or with CCIM. As submitted earlier, CCIM has been replaced with NCISM by an Act of Government of India. The applicant holds a valid NCISM certificate as recorded in the above submission.

Responding on behalf the State respondent, Mr. Mondal, learned counsel submits that the applicant had failed to submit a valid registration certificate at the time of verification of documents. The date 16.01.2024 was the date of verification of such certificates. He also points out that the applicant's registration with Parishad had been cancelled on 14.07.2023 on the ground that she was registered with the Maharashtra Council. Relying on Memo dated 16.01.2024 issued by the Registrar, Paschim Banga Ayurvedic Parishad, Mr. Mondal also points out that the applicant could not produce NCISM registration certificate at the time of verification of documents.

Having heard the submissions and on examination of the records, the Tribunal is of the observation that it is not in dispute that the applicant had a valid registration with the NCISM during the recruitment process where 12.12.2022 was the cut off date. It is also not in dispute that the applicant having migrated to the Maharashtra Council had got her Parishad certificate cancelled. What appears now is the question whether the applicant had presented her valid NCISM certificate before the Respondent authorities on the date of document verification.

It is also pertinent to understand from both the sides which certificate the applicant had uploaded while filling the online application, the Parishad

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certificate or NCISM certificate? The Tribunal directs the State respondents to check the records and present before it details of the registration documents uploaded by the applicant at the time of filling her online application.

Mr. Mondal, learned counsel files copies of certificates which were uploaded by the applicant in her online application. This Tribunal on the last date of hearing had asked the respondent authorities to tell which certificate was uploaded by the applicant, Parishad certificate or NCISM certificate. Relying on the copies of the certificates presented before this Tribunal, Mr. Mondal has categorically stated that the applicant had furnished the Paschim Banga Ayurved Parishad certificate having registration no. 122199 dated 02.05.2014. Also enclosed with the main certificate is another certificate names, "Renewal Certificate" issued by the same Parishad to the applicant dated 02.01.2019. This certificate has a footnote which says, every five years at the time of renewal candidate have to produce this certificate with identity card." It is apparent from this footnote that this certificate renewed on 02.01.2019 had a validity till 20.01.2024.

After hearing the submissions of the learned counsels and after examining the records in this application, it has become clear to the Tribunal that the applicant had submitted her Parishad certificate before 30.12.2022. This Parishad certificate was cancelled on 14.07.2023. It is not in dispute that at the time of uploading the certificate within the last date, the applicant was holding a valid certificate from Paschim Banga Ayurved Parishad. Verification of these documents was done by the respondent authorities on 16.01.2024, two years after last date of submission. At the time of verification, it was found that the Parishad certificate of the applicant had already been cancelled. However, it is also a fact that at the time of submission of the certificate, the certificate was a valid certificate. A copy of the registered Paschim Banga Ayurved Parishad memo 547 dated 21.11.2022 has been presented which states that the registration no. of the certificate held by the applicant has been suspended from practising or applying for any job. A copy of an order dated 19.01.2024 passed by the Registrar, Paschim Banga Ayurved Parishad enlightens that the registration certificate no. 12219 of Dr. Ushasi Ghosh Chaudhury has been cancelled on 14.07.2023 due to holding dual registration with the Parishadas as well with Maharashtra Council of Indian Medicine. Interestingly, the order also says that

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the Parishad has no objection to register her qualification temporarily under Paschim Banga Ayurved Parishad as per provisions of Section 55 of NCISM Act, 2020.

The Tribunal observes that, on one hand, the registration certificate was cancelled on the ground that the applicant was in possession of dual certificates and after such cancellation gives an opportunity to the applicant to register her qualification, even though temporarily under the same Parishad which had cancelled the certificate. It is surprising to the Tribunal the Board on one had cancels the certificate on the charge of dual possession of certificates by two different Councils and on the other hand also allows the applicant to register with it even though temporarily.

From this observation, it can safely be assumed that the Parishad has no objection if the applicant continues to possess two certificates, one from Maharashtra Council, the other one from the Parishad. In terms of such opportunity given by the Parishad in its order dated 19.01.2024, the applicant furnished a prayer before it requesting for registration of her qualification under the Parishad. Accepting her application for re-registration with the Parishad on 22.01.2024, the Parishad issued her a temporary registration no. TR001 under section 55 of NCISM Act.

Going back to the core issue of this matter, the applicant who was provisionally selected for the post of Senior Ayurved Medical Officer advertised by the Health Recruitment Board on 12.12.2022 was later by an order dated 06.03.2024 such recommendation was cancelled. The reason given for such cancellation of her candidature in the order dated 06.03.2024 is as follows :

“At the time of recruitment process she was not registered under Paschim Banga Ayurved Parishad.”

Going back to the earlier points of argument, the Tribunal had noted that during the recruitment process initiated by the advertisement dated 12.12.2022, the applicant was in possession of her valid certificate. However, her candidature was cancelled after more than 2 years when the authorities were examining the documents. It is not incorrect to say that at the time of recruitment process, the applicant was already in possession of a valid certificate. It leaves a very important question that when a candidate applies for a post enclosing relevant documents which are verified after a long gap of more

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than two years, will such validity of the certificate be questioned later? The Tribunal has also observed that a certificate was initially suspended and cancelled later was again re-registered after payment of some penalty. Such acts of the respondent authority were arbitrary and whimsical. Validity of a certificate once accepted cannot be questioned at a later stage.

In view of above findings, the Tribunal directs respondent no. 3 to give appointment to the post of Senior Ayurvedic Medical Officer in terms of the recommendation by WBHRB within 3 (three) months time from the date this Order is communicated to him.

The application is disposed of.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

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