

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 440 of 2023

Pranoy Kumar Marjit & Ors. -- VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order For the Applicants : Mr. S. Ghosh, Ld. Advocate.

For the State Respondent : Mr. G.P. Banerjee, Ld. Advocate.

03
07.02.2024

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.

The applicants have filed this application before this Tribunal praying for a direction to the respondent authorities to allot them 5 (five) marks against their experiences in the Government sector. The contention of the applicants is that though they have such an experience as stipulated in the advertisement, but no marks were allotted for this. Though copy of advertisement is not available in this application, it is understood that it had made provision for 5 (five) extra marks for the perspective candidates, who had the experience of at least one year of having worked in the Government sector. This is evident from the Annexure-I which appears to be the break-up of marks scored by each successful candidate. For instance, the serial no. 1 candidate, Moumita Pradhan has been allotted 5 (five) marks against “*working experience with Government (FM-5) (for 1 year or more).*” Similarly, in the case of one of the applicants, Soma Ghosh appearing at serial no. 116, 0.00 has been shown against such an experience. Mr. Ghosh, learned counsel for the applicants draws this Tribunal’s attention to page 24 which appears to be a copy of a certificate issued by the Director, State Drugs Control & Research Laboratory, Government of West Bengal to Soma Ghosh for her having an experience as a Laboratory Assistant in the Institute since 08.02.2013. Similarly, the applicants (i) Pranoy Kumar Marjit and (ii) Santanu Prosad Dutta possess a certificate issued by the Works Manager, Bengal Chemicals & Pharmaceuticals Ltd on 04.03.2016.

Available in this application is also a Notification No. 10/CON/WBHRB/2017 dated 24.08.2017 which appears to be the draft gradation list of Inspector of Drugs for OBC-B candidates. In this list, the same applicant, Soma Ghosh appears at serial no. 03. Similarly, the names of other applicants can be seen in the draft gradation list under their respective social categories. Subsequently, after consideration of all objections, the respondent authorities published the final gradation list on 20.12.2022. Finally, Mr. Ghosh draws attention to the representation

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filed by Soma Ghosh before the respondent department in which she has pointed out that despite having the experience in the Government sector, she was not allotted the required additional 5 (five) marks against such experience. In the representation, she points out that she had scored a total of 79.50 marks and if the 5 (five) marks against her experience had been allotted, she would have got a total of 84.50 marks and thus, her position in the draft gradation list would have been higher.

Mr. G.P. Banerjee, learned counsel appearing for the respondent authorities, however, does not agree to the points as submitted by Mr. Ghosh. At the very outset, he is emphatic in his submission that this application is barred by limitation for the reason that the applicants have come to this Tribunal in the year 2023 challenging the list of recommended candidates published in the year 2017. Such recommended candidates had also joined their respective places of posting on 28.09.2018. Further submission is that though the advertisement had made a provision for allotment of 5 (five) additional marks against the candidates experience in a Government sector, but such valid certificate was to be presented by the candidate at the time of interview itself during 2017-2018. In the case of Soma Ghosh as referred by Mr. Ghosh, her certificate itself is dated 18.04.2017 and such certificate was never presented, not only at the time of interview nor at any point of time before the respondent authorities. Despite the above points of argument, Mr. Banerjee, submits that the most relevant point against the prayer of this application is that, such a prayer for consideration of the experience certificate for an examination held in the year 2017 cannot be agitated after 6 years. The applicants being successful in the year 2017 joined their employment in 2018 and continued in their services, but they never sought such remedy during this period, either before the respondent authorities, their employer nor before any forum like the Tribunal. Therefore, such belated application praying for a direction to consider their experience certificate which was to be submitted and examined during the recruitment process of 2016-2018 is not admissible in this Tribunal.

In support of his submissions made above, Mr. Ghosh wishes to file copies of some relevant documents, like the advertisement on the next date of hearing.

Let the matter appear under the heading **“For Orders”** on **02.07.2024**.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)