

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 - 476 of 2024

Regional Optometrists' and Ophthalmic Society & Anr. - Vs - The State of West Bengal & Ors.

Serial No. and

Date of order

: Ms. Tulika Bhattacharya,
Advocate.

:
: Mr. G.P. Banerjee,
Mr. S. Ghosh,
Advocates.

03

13.12.2024

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.

The Regional Optometrists' and Ophthalmic Society is the main applicant in this application prying for quashing the Notification dated 28.08.2023 issued by the Secretary & Controller of Examination, West Bengal Health Recruitment Board. The joint applicant is Hazrat Ali Shaikh, who is 64 years old and certainly not a candidate in the examination, which is being opposed.

The Regional Optometrists' and Ophthalmic Society have filed this application mainly praying for setting aside the Advertisement No. R/ Medical Technologist (Optometry), Grade-III/14/2023 dated 28.08.2023 published by the West Bengal Health Recruitment Board. The Board had published this advertisement for recruitment to the post of Medical Technologist (Optometry) Grade-III. The last date for submission of online registration was 15.09.2023. Mr. K.K. Roy appearing for the Society submits that inclusion of Bachelors Degree in Medical Technology as an essential qualification for recruitment to the post is contrary to the recruitment rules framed for this post. The advertisement besides covering two years Diploma Course in Medical Technology had also given the option of Bachelor Degree in Medical Technology as qualification required by the candidates to be eligible to

ORDER SHEET

Form No.

Regional Optometrists' and Ophthalmic Society & Anr.

Vs.

Case No **OA - 476 of 2024**

THE STATE OF WEST BENGAL & OTHERS.

apply for this post.

Mr. K.K. Roy, learned counsel appearing on behalf of the Society had drawn attention to copy of the Recruitment Rules dated 03.12.2010 for the post of Medical Technologist (Optometry) and submits that at para 1 (B) of the said Rule states the following :-

Qualification :-

- (a) (ii) “Must have a 2 (Two) year Diploma in Pharma Ophthalmic Assistant Course/a two year Diploma Course in Optometry & Ophthalmic technique recognised by the Govt. of West Bengal”.

Argument is that the Recruitment Rule did not specify any qualification of a Degree required for Medical Technologist (Optometry). Therefore, the advertisement, by publishing the option of two years Bachelors Degree, has flouted the recruitment Rules.

Responding on the behalf of the State, Mr. Banerjee and Mr. Ghosh, learned counsels argue that this application is not maintainable due to the fact that the Society represented by Mr. Roy in this Tribunal is neither a candidate for the recruitment process nor has the legitimacy to agitate on behalf of the candidates. Further, this application is more akin to a public interest litigation for which the Tribunal has no jurisdiction.

This Tribunal recalls a judgement of Hon'ble Supreme Court reported in (1998) 7 SCC 273 (Dr. Duryodhan Sahu Vs. Jitemdra Kumar Mishra) in para 18 as a relevant reference, which is as under :-

“The constitution of Administrative Tribunals was necessitated

because of the large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the courts but also provide to the persons covered by the Tribunals speedy relief in respect of their grievances. The basic idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of "service matters" found in Section 3(q) shows that in relation to a person, the expression means all service matters relating to the conditions of his service. The significance of the word 'his' cannot be ignored. Section 3(b) defines the word "application" as an application made under Section 19. The latter section refers to "person aggrieved". In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the Section 19 so that all matters referred to in Section 3 (q) as service matters could be brought before the Tribunal. If in that context Sections 14 and 15 are read, there is no doubt that a total stranger to the service concerned cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal, the very object of speedy disposal of service matters would get defeated."

From a close reading of the judgement, the Tribunal has come to the conclusion that the jurisdiction and mandate flowing from the Administrative Tribunal's Act, 1985 is restricted to only to "aggrieved" person, and not Societies or organisations. In this application, the

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Form No.

Regional Optometrists' and Ophthalmic Society & Anr.

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Case No **OA - 476 of 2024**

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Society ventilates a grievance relating to a recruitment process in which it is neither a participant nor has any mandate on behalf of the individual participants. This application is similar to a public interest litigation, for which this Tribunal has no mandate to accept.

Thus, finding this application not maintainable as per the Administrative Tribunal's Act, it is dismissed.

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

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