

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. –OA 511 of 2020

**ANJAN KUMAR PATRA & ANOTHER - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and  
Date of order

03  
06.08.2021

For the Applicants : Mr.G.Halder  
Advocate

For the State Respondents : Mr.G.P.Banerjee  
Advocate

The matter is taken up by the single Bench pursuant to the Notification No.949-WBAT/2J-15/2016 dated 24<sup>th</sup> December, 2020 and 456-WBAT/2J-15/2016 dated 16<sup>th</sup> July, 2021 issued in exercise of the powers conferred under section 6(5) of the Administrative Tribunals Act, 1985.

Mr.G.Halder, learned advocate for the applicants submits that though the matter has appeared under the heading “Reply, rejoinder and Objection”, the matter may be heard as no reply has been filed on behalf of the State respondents to which Mr.G.P.Banerjee, learned advocate for the State respondents in his usual fairness does not object.

In this application, the applicants, who have applied for the post of Medical Technologist (Lab), Grade-III, have prayed for several reliefs, the relevant portion of which is as under :

“a) A direction do issue upon the concerned respondent authorities, to forthwith issue appointment letter to the applicants herein for the post of “Medical Technologist (Lab)”, Grade-III under Health and Family Welfare Department, Government of West Bengal by issuing appointment letters within a stipulated time period.

b) A direction do issue directing the respondent authorities herein to appoint the applicants to the post of Medical Technologist (Lab) Grade-III taking into account the

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qualification of M.Sc. MLT of the applicants as essential qualification as per advertisement no. R/MT/Phar/ Physio/ 48/2/2018.

c) An order do issue thereby setting aside/ quashing the order of rejection in respect of applicant no.2 herein, wherein and whereby the candidature of the applicant no.2 was rejected on the ground of possessing M.Sc (MMLT), and after setting aside include the name of the applicants in the combined merit list, and issue appointment letter accordingly within a stipulated time period.”

Referring to the intimation dated 25<sup>th</sup> November, 2020 being Annexure-‘E’ to the application, particularly paragraph (ii), Mr.Halder submits that as the applicant has completed M.Sc. (MMLT) for which no marks have been given and consequently their candidatures were rejected, appropriate order may be passed. In view of the judgement delivered on 9<sup>th</sup> December, 2016 in OA- 352 of 2014 (Diptendu Chatterjee & Ors. Vs.The State of West Bengal & Ors.) particularly the findings in paragraph 16 thereof, since candidates similarly situated have been given appointment, appropriate order may be passed. In this regard attention has been drawn to the order dated 14<sup>th</sup> January, 2021 which contains a list of similarly situated candidates who have been appointed.

Mr.Banerjee, submits in view of the submission made by the applicant, if directed, the respondent authorities will consider the issue in accordance with law.

Having heard the learned advocate for the parties, since it has been stated that the applicants after completion of B.Sc. have completed M.Sc.

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(MMLT) for which no marks have been given and their candidatures were rejected, in view of the judgement passed in the case of Diptendu Chatterjee (Supra), particularly the directions in paragraph 16 thereof, the application is disposed of by directing the Secretary and Controller of Examinations, West Bengal Health Recruitment Board, the respondent no. 3 to take a decision regarding the appointment of the applicants, if found suitable, by passing a reasoned order to be communicated to the parties within fifteen weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal after consulting the Director of Health Services, Government of West Bengal, the respondent no.2.

Since for circumstances beyond control the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the official website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

(SOUMITRA PAL)  
CHAIRMAN

BLR