

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta(Sen), Member(J).

Case No. – OA 594 of 2021

MAINAK KHAMARU - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. Dibyendu Chatterjee Advocate
<u>02</u> 18.08.2021	For the State respondents	: Mr. M.N. Roy Advocate

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

As per the Applicant, he was born on 31st December 1993. The West Bengal Police Recruitment Board, vide their Notification No. WBPRB/NOTICE-2021/21(SI_KP-21) dated 16.07.2021 had invited applications from eligible Indian Citizens having the eligibility criteria as enumerated in the said notification for the post of Sub-Inspector/Sub-Inspectress(Unarmed Branch) and Surgeon in Kolkata Police, 2021. In the said eligibility criteria, the age criteria was that the applicant must not be less than 20 years old and must not be more than 27 years old as on 01.01.2021 for the general direct candidates. The application form was directed to be submitted through online or offline during the period from 19.07.2021(00:00 hrs) to 19.08.2021 05:00 pm. As per the Applicant, his date of birth is 31.12.1993. Therefore, he is 27 years 1(one) day old as on 01.01.2021. However, when he approached to submit online application, he could not do so. Subsequently, he made a representation to the West Bengal Police Recruitment Board on 03.08.2021 praying for relaxation of age for submitting of application. However, till date no communication has been made to him. Being aggrieved he approached the Tribunal and asked for following relief.

“That in such view of the matter and circumstances of the case, the applicant herein most humbly pray that Your Lordship would graciously be pleased to issue:-

MAINAK KHAMARU - VERSUS - THE STATE OF WEST BENGAL & ORS.

- a) An order directing the respondent authorities particularly the West Bengal Police Recruitment Board to permit the applicant to fillup the form online or offline for the post of Sub-Inspector and Sergeant in Kolkata Police, 2021 before 19th August, 2021 and permit the applicant to participate in the selection process for the subject post of Sub-Inspector and Sergeant in Kolkata Police, 2021.**
- b) An order directing the respondents authorities particularly the West Bengal Board of Primary Education to consider the application of the applicant dated 3rd August, 2021.**
- c) Such further and/or other order or orders and/or direction or directions as this Hon'ble Tribunal may deem fit and proper.**

10. INTERIM ORDER, IF ANY PRAYED FOR:

An order directing the respondent authority to allow the applicant to fillup the form immediately for the post of Sub-Inspector and Sergeant in Kolkata Police, 2021 and to permit the applicant to participate in the selection process.”

The Counsel for the Respondent, however, had submitted that the West Bengal Police Recruitment Board had invited the applications as per the recruitment rules published in Official Gazette on 19.02.2018, wherein under Rule 4(iv), the age criteria were clearly stipulated and as per the Respondent Authority, the notice is totally as per the provision of the aforesaid rule. However, as the Applicant is unfortunately one day older than the stipulated age criteria and the Recruitment Board being Selection Board only, therefore the said Board does not have the power to relax or condone age criteria as prayed for by the Applicant. However, the Applicant would have approached appropriate authority for such relaxation if permissible as per the rules. Therefore, the Counsel for the Respondent has made a preliminary objection to grant any interim protection to the Applicant.

PKD

MAINAK KHAMARU - VERSUS - THE STATE OF WEST BENGAL & ORS.

The Counsel for the Respondent has also further prayed for time to file appropriate reply.

Heard the parties and perused the records. It is noted that in the recruitment Rules 4 of sub-rule (iv) stipulates the age criteria as follows:

“Age of the candidate must not be below 20 years and not more than 27 years as on the 1st January of the year of advertisement. The upper age limit shall be relaxable by 5(five) years in case of Scheduled Castes and Scheduled Tribes Candidates and by 3(three) years in the case of Other Backward Classes Candidates.”

However, the notification issued by the Recruitment Board stipulating the eligibility criteria is as follows:-

“Age:- The applicant must not be less than 20(Twenty) years old and must not be more than 27(Twenty Seven) years old as on 01.01.2021. The upper age limit shall be relaxed by 05(five) years for the candidates belonging to the categories of Scheduled Castes(SC) & Scheduled Tribes(ST) and by 03(three) years for the candidates belonging to the categories of Other Backward Classes(OBC).

The upper age limit for the Departmental candidates of Kolkata Police only shall be relaxable upto 35 years which shall further be relaxed by 5(five) years in case of Scheduled Castes and Scheduled Tribes candidates and by 3(three) years in the case of Other Backward Classes candidates.”

MAINAK KHAMARU - VERSUS - THE STATE OF WEST BENGAL & ORS.

the provisions of the Recruitment Rules and admittedly the Applicant is more than 27 years of age on the cut-off date, i.e., on 01.01.2021. Further, as the West Bengal Police Recruitment Board being a selection body, have no authority to grant relaxation. Even the Applicant has not submitted the application either online or offline till date. Therefore, I do not find any reason to grant interim protection to the Applicant at this stage. As there is no prima facie case has been made out for the Applicant for interim protection, interim relief if rejected.

However, the Respondent is at liberty to file written reply by 4 weeks, rejoinder, if any, after 2(two) weeks thereafter. Let the matter come for final hearing on 07.10.2021.

Both the parties are directed to act upon the Website copy of the order.

PKD

Urmita Datta(Sen)
Member(J)