

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present : **HON'BLE JUSTICE SOUMITRA PAL,** **HON'BLE CHAIRMAN &**
HON'BLE SAYEED AHMED BABA, **ADMINISTRATIVE MEMBER.**

Case No. – OA 606 of 2021.

SHUKDEB MAITI – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. S. Ghosh, Advocate.
<u>4</u> 15.2.2022	For the State Respondents	: Mr. G.P. Banerjee, Advocate.

In this application Shukdeb Maiti, the applicant, who had participated in the selection process for the post of Medical Technologists (Lab) Grade-III under the Health and Family Welfare Department, Government of West Bengal has 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 applicant 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 applicant to the post of Medical Technologist (Lab) Grade-III by allowing full marks for possessing the qualification of M.Sc. MLT as essential qualification as well as marks for experience as per advertisement no. R/MT/Phar/Physio/48/2/2018 within a stipulated time period....”.

It is submitted by Mr. S. Ghosh, learned advocate for the applicant that since the applicant is having Master degree in the same field, in view of the judgement delivered on 9th December, 2016 in OA 352 of 2014, Diptendu Chatterjee & Ors – versus- State of West Bengal

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& others, appropriate order may be passed. Since the applicant is having Master degree in Laboratory Technology and as in the distribution pattern of marks as stipulated in the advertisement, fifteen marks have been allotted in “Bachelor degree in Laboratory Technology”, the respondents have wrongly granted him twelve marks. Submission is the experts should have granted fifteen marks to the applicant instead of twelve marks as granted, which has been done in the case of many candidates as evident from page 44 of the application. The respondents have mistakenly given marks under clause “d one year Diploma Course in Laboratory Technology with B.Sc (Pure/Bio)”.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits that the advertisement does not speak of candidates having Master degree rather it speaks of allotment of fifteen marks for having Bachelor degree in “Laboratory Technology”. The argument of the applicant that he was awarded twelve marks under clause “d one year Diploma Course in Laboratory Technology with B.Sc (Pure/Bio)” is misconceived.

In order to appreciate the issue, it is appropriate to set out the relevant portion of the judgement in Diptendu Chatterjee (supra), which is as under :-

“.....Thus, having regard to the facts and circumstances of the case and the observations and decisions of the Hon’ble Supreme Court in similar cases, we hold that the Applicants who are having the degree of Bachelor of Medical Laboratory Technology or Master degree in the same field and discipline shall be considered to have possessed the essential qualification for recruitment and their candidature cannot be rejected on the ground that they do not possess the specific qualification as laid down in the advertisement. We direct the

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respondent authorities to complete the process of recruitment accordingly...”.

It appears that the judgement in Diptendu Chatterjee (supra) is not applicable to the facts of the present case as therein the candidature of the applicants was rejected even having Bachelor degree or Master degree in the same field and discipline, whereas in the present case marks have been granted by the experts. The submission on behalf of the applicant that marks were granted under clause “d one year Diploma Course in Laboratory Technology with B.Sc (Pure/Bio)” is not supported by evidence. Since the experts have granted marks and since the judgement in Diptendu Chatterjee (supra) is not applicable, no order is passed on the application. The application is disposed of.

(SAYEED AHMED BABA)
MEMBER(A)

(SOUMITRA PAL)
CHAIRMAN.

Skd.