

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 617 of 2023

Md. Janbor Ali & Ors. - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

2
28.02.2024

For the Applicant	:	Mr. S. Pal , Advocate.
For the State Respondents	:	Mr. R.K. Mondal, Advocate
For the private respondents VI & VIII	:	Mr. Sankha Ghosh, Advocate
For the private respondents VII & X	:	Mr. Saurav Bhattacharjee, Mrs. Subarna Das, Advocates

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 in this application have prayed for a direction upon the respondent authority for appointment to the post of Physiotherapist (Grade-III). The applicants had earlier filed an application before this Tribunal being OA-85 of 2020 with same prayers. The Tribunal after hearing the matter passed an order dated 22.07.2022 and directed the Respondent No. 4, Secretary and Controller of Health of Examination Recruitment Board to consider and dispose of their applications by giving separate replies to the applicants.

In terms of such a direction, the Respondent No. 4 passed a detailed reasoned order dated 01.03.2023 and after giving reasons rejected the claim of the petitioners.

It appears from the reports filed by the applicants that they,

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being Diploma holders, were given lesser marks in the interview compared to those had Bachelors and Masters qualification. It is submitted by Mr. Pal that in the advertisement, Diploma course in Physiotherapy (BPT) was the essential qualification required and thus the applicants have fulfilled such requirement. A Bachelors Degree in Physiotherapy (BPT) was only a desirable qualification and not essential. Therefore, being more favourable to those candidates having Bachelors and Masters and awarding them higher marks, the respondent authorities have been, not only arbitrary but showed prejudice against the applicants, being only Diploma holders.

Responding to the submission of Mr. Pal, Mr. Ghosh and Mr. Mondal draw attention to page 41, which is the advertisement relating to distribution pattern of marks for the same post. It appears that under this distribution, a two years Diploma course in Physiotherapy (DPT) has been allotted 12 marks, Bachelors in Physiotherapy (BPT) 13 marks, and for Masters Degree (MPT) 15 marks. Since the applicants were Diploma holders only, therefore, their marking was within 12 marks only. Had they been holders of Bachelors or Masters, they would have deserved to get higher marks. Since they are only Diploma holders and since the advertisement made it clear that Bachelors and Degree holders would be awarded higher marks, the applicants cannot agitate and demand similar marks at par with the Degree / Master holders.

Let the submissions continue on the next date. Let the matter appear under the heading "Hearing" on **21.08.2024**.

SCN.

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