

**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- 624 of 2023**

**Dr. Wasim Akhtar - Vs - The State of West Bengal & Ors.**

Serial No. and  
Date of order

03  
31.07.2024.

For the Applicant : Mrs. Sonali Mitra,  
Mrs. Priya Sasmal,  
Learned Advocates.

For the State Respondents Mr. Sankha Ghosh,  
Learned Advocate.

For the Private Respondent No 6. Mr. Sourav Bhattacharjee,  
Mrs. Subarna Das,  
Learned 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.

Mrs. Sonali Mitra prays for liberty to add Chairman, West Bengal Health Recruitment Board as a party respondent. Liberty is given to add the Chairman, West Bengal Health Recruitment Board as Respondent No. 1 (a) in the array of respondents.

In terms of a direction of this Tribunal dated 18.08.2022 in OA-130 of 2020, the Secretary and Controller of Examinations passed a reasoned order on 23.03.2023. In the earlier OA 130 of 2020 as well in this application, the applicant has been contending that he was not awarded 10 (ten) additional marks for possessing a Post Graduate Degree.

After examination of the records and hearing the submissions of the learned counsels, the Tribunal finds that the cut off date mentioned as 09.10.2018 in the reasoned order is wrong. As per the advertisement and confirmed by both the sides, such cut off date notified was **05.11.2018**. Therefore, the reason given in the impugned order that the document was submitted after the cut off date “09.10.2018” is incorrect and not a fact.

The second area in which there is some dispute is relating to

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the provisional Post Graduate Degree certificate. This certificate awarded to the applicant by the Maharashtra University of Health Sciences, Nashik dated 06.03.2019 certifies that the applicant has passed MS (Ayurveda) during Winter 2018. There is no dispute that this very certificate was uploaded on time and also submitted for verification during the interview of the applicant on 11.03.2019. But the dispute is about this certificate dated 06.03.2019 was not accepted as a valid certificate for the reason that such certificate was issued by the University after the cut off date 05.11.2018. For this reason the applicant was not awarded 10 (ten) marks for possessing this outdated certificate. Mrs. Mitra submits that if this being the reason for rejection of this applicant, then similar certificates of the Private respondents issued after the cut off date 05.11.2018 was not only accepted, but they were also recommended for appointment. A copy of the R.T.I. reply dated 11.09.2019 replied by the Rajiv Gandhi University of Health Sciences, Karnataka is being presented which states that the result of Post Graduate final year of Dr. Mritunjay Kumar and Dr. Hafiz Hassan were published on 08.12.2018. Argument on behalf of the applicant is that these two private respondents whose results were also published beyond the cut off date have been accepted and after awarding 10 (ten) marks they were also recommended for appointment.

Learned counsels on behalf of private respondents object admission of this application on the ground that these two private respondents were not necessary parties to be added for the reason that they have already been appointed and serving for nearly four years.

Attention is also drawn by Mrs. Mitra to page 41 which is the 3<sup>rd</sup> page of the reply filed earlier by the respondent authorities in OA-130 of 2020. After close reading of the relevant paragraph, it is evident

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that the respondent authorities have admitted that the provisional degree certificate in M.D. was issued on 12.12.2018 to Dr. Hafiz Hassan and on 14.12.2018 to Dr. Mritunjay Kumar. Both the dates of the Certificates, 12.12.2018 and 14.12.2018 were after the cut off date which was 05.11.2018.

After hearing the submissions of the learned counsels and on examination of the records, the Tribunal is satisfied beyond any doubt that the applicant's case was not treated with the same diligence and consideration as was done by the Board with regard to the two private respondents. From the records presented, it is very clear that, like the applicant's certificate, the certificates submitted by the private respondents were dated after the notified cut off date of 05.11.2018. The applicant's certificate is dated 06.03.2019 and the private respondents' certificates as 12.12.2018 and 14.12.2018. From this it is evidently clear to all that these three certificates belonging to the applicant as well to the private respondents were issued after the cut off date of 05.11.2018. Therefore, it is, for ends of justice, the responsibility of the Board to reconsider the decision in respect of the applicant's certificate. Such reconsideration is also necessary in view of the fact that the most important date to be reckoned in this matter, being the cut off date has been erroneously mentioned as 09.10.2018 instead of 05.11.2018 by the Secretary and Controller of Examinations in his reasoned order dated 23.03.2023. In view of what has been observed so far, the reasoned order passed by the Secretary and Controller of Examinations on 23.03.2023 is not tenable and therefore, it is quashed and set aside.

The Tribunal requests the Chairman of the West Bengal Health Recruitment Board to re-consider the matter after proper examination of the relevant documents submitted by the applicant, in

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particular, the post graduate certificate and take a final decision, whether this applicant is also entitled to be awarded 10 marks for such certificate like the two private respondents or not within a period of three months from the date of communication of this order. Accordingly, the application is disposed of.

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

SC