

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**The Hon'ble Mrs. Urmita Datta (Sen), Officiating Chairperson & Member (J)**

**Case No. – OA 643 of 2022**

*Dr. Prasanta Kumar Ghoraí* -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. K. Bera, Ld. Advocate.
	For the State Respondent	: Mr. G.P. Banerjee, Ld. Advocate.
<u>02</u> 28.09.2022		

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26<sup>th</sup> August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

Affidavit of service filed today be kept on record.

As per the applicant, in response to Advertisement No. R/HMO/78(1)/1/2019 dated 20.12.2019 published for selection (Direct Recruitment) to the post of 243 Homoeopathic Medical Officers under West Bengal Homoeopathic Health Service, the applicant had submitted his application for the same under unreserved quota. However, after perusal of the final merit list dated 02.11.2021 (Annexure-C), he did not find his name for the selected candidate. Being aggrieved with, he had approached this Tribunal in OA-943 of 2021 with a specific case that he was not granted 5 marks with regard to experience as Residential Medical Officer which according to the applicant, should get 5 marks as per the modalities stipulated in the advertisement as he was working as RMO along with two other selected candidates since 02.12.2013 (Annexure-H) till date. The said OA was disposed of vide order dated 25.02.2022 (Annexure-I) wherein this Tribunal had directed the Controller of Examinations, West Bengal Health Recruitment Board and the Secretary and Controller of Examinations, West Bengal Health Recruitment Board to review the marks granted to the applicant after considering the experience certificate, if filed in accordance with law and communicate their decision within a stipulated period of time. In compliance to that, the respondent had issued one reasoned order dated 14.09.2022 (Annexure-J) whereby the contention of the applicant was rejected on the ground that the numbers allotted to the candidate are correct. Being aggrieved with, the applicant has filed the instant application. As per the applicant, in the Notification of 20.12.2019, it has been specifically stipulated that the tentative

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marks distribution process in the said examination for the recruitment of Homoeopathic Medical Officers and from the perusal of the same vis-a-vis his academic qualification as well as House Staff-ship Certificate and certificate of other experience as RMO and interview, it would be found that he has been rightly granted 64 marks against the academic qualification as BHMS as he got two supplies in the said examination. Further, with regard to House Staff-ship, he has been having more than 5 years experience as House Staff, he has been rightly granted 5 marks for that and which in total would be 64+5 i.e. 69 as has been reflected in the result uploaded in the website of the concerned board (Annexure-E). It is further submitted that he has granted 13 marks against interview. However, no marks has been granted with regard to the experience though he is having experience as RMO since 02.12.2013 along with two another selected candidates namely Dr. P.N. Roy and Atanu Majumder, whose names are reflecting in the office order dated 11.11.2013 as well as certificate dated 05.01.2021 issued by the Principal Superintendent of Metropolitan Homoeopathy College and Hospital as well as in the final selected list against serial Nos. 6 and 14 respectively. Therefore, according to the applicant, it is crystal clear that no marks have been allotted against the experience as RMO. Further, it has been submitted that in the reasoned order, no break-up of marks has been shown, but only it has been stated that after going through the testimonials including experience certificate, nothing wrong has been found. In view of the above, the counsel for the applicant has drawn my attention to the Memo dated 08.09.2022 (Annexure-K), wherein subsequently the Special Secretary, Department of Health & Family Welfare had requested the Secretary and Controller of Examinations, WBHRB to recommend another fresh eight candidates from the existing panel of Homoeopathy Medical Officers for filling up of eight posts (6 UR, 1 SC, 1 OBC-A). Therefore, the applicant has prayed for interim protection to keep one post vacant as per Memorandum dated 08.09.2022 till the final disposal of the OA.

The counsel for the respondent has prayed for time to file reply.

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Heard the parties and perused the records. It is noted that the advertisement dated 20.12.2019, the tentative marks distribution system has been stipulated, which is as follows:

SL.NO.	QUALIFICATION	MAXIMUM MARKS	REMARKS
1	Bachelor of Homoeopathic Medicine and Surgery (B.H.M.S.) from a recognized University or Institute.	75 (Max.)	Marks obtained in Aggregate, (1 <sup>st</sup> BHMS to 4 <sup>th</sup> BHMS all together) [(0.5) mark will be deducted for supplementary in each subject or chance lost]. For e.g. – A student obtained 64% in aggregate, with supplementary in two subjects, the Scoring will be 65- (0.5*2)=65-1=64 TOTAL :50.00%-55.99%=60 TOTAL :56.00%-65.99%=65 TOTAL :66.00%-75.99%=70 TOTAL :76.00%-99.99%=75
2	House Staff Ship	5 (Max)	For 6 months-2.5 marks For 1 year-5.0 marks
3	Other experiences in Homoeopathy from any Government Institution or Government affiliated organization	5 (Max)	1 mark for each completed year, Maximum 5 marks Other experience should include Clinical, Teaching, Research and other experiences in Homoeopathy from any Government Institute or Government affiliated Organization excluding M.O. AYUSH under RBSK.
4	INTERVIEW	15 (Max)	
	TOTAL	100	

From the perusal of result of the applicant, published in the website (Annexure-E), it is noted that that the applicant has been granted the following marks:

**“Academic Score : 69**  
**Interview Score : 13**  
**Total Score : 82”**

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However, no marks distribution has been shown in the reasoned order, but the respondent had simply observed the following:

**“On 05/05/2022, the concerned Technical Expert has submitted a report before the then Secretary, WBHRB which inter alia states, “... I am to recheck the Experience Certificate of Prasanta Kumar Gharai, which after going through the file, it is found that the numbers allotted to the candidate is correct.”**

**After considering the matter, I am of the view that the opinion furnished by the Technical Expert is found to be correct.**

**Hence, the claim of the petitioner cannot be acceded to.”**

However, from the above, no marks distribution has been found though the applicant had made a specific submission that he was not granted any marks under the heading ‘experience’.

In view of the above, since the applicant has a prima facie case, therefore, the respondents are directed to keep one post vacant as per Memo dated 08.09.2022 till the disposal of the OA. The respondent is also directed to file reply by six weeks and rejoinder, if any, by two weeks thereafter.

Let the matter be placed before the **Registrar Bench** on **20.12.2022** for completion of pleadings.

**URMITA DATTA (SEN)**  
**Officiating Chairperson & Member (J)**

CSM/SS