

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. - OA 76 of 2021

BISWAJIT KUMAR DAM & OTHERS. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	: Mr. M.Karim Md.Y.ali Mr.A. Samad Advocates
<u>01</u> 03.02.2021		
	For the Respondents	: Mr. S. Ghosh, Advocate

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

The matter has come up in the supplementary cause list.

Affidavit of service filed today be kept on record. In view of the urgency the matter is taken up for hearing under the heading "Admission Hearing".

In this application, the applicants, Medical Technologists (Lab) Grade-III at Government Hospital on contractual basis, have prayed for a certain reliefs, the relevant portion of which is as under:

- “ a) An order declaring that the applicants have essential qualifications and your applicants are within the age limit for the post of Medical Technologists (Lab), Grade-III under Health & Family Welfare Department, West Bengal.
- b) An order directing and commanding the respondents to relax the age limit of the applicants and to allow the applicants to register and submit application for the post of Medical

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Technologists (Lab), Grade-III under Health & Family Welfare Department, West Bengal and to allow the applicants in the next process for the post of Medical Technologists (Lab), Grade-III under Health & Family Welfare Department, West Bengal and to appoint the applicants if they are come within the zone of consideration.”

It is submitted by Mr. M.Karim, learned advocate appearing on behalf of the applicants, that in view of the law laid down in Gobinda Chandra Mondal Vs. Principal, Rabindra Mahavidyalaya; 2013 (1) CHN (CAL) 9, particularly in paragraph 25 thereof, the applicants are entitled to participate in the selection process after condoning the age bar and interim order may be passed as the last date for filing online application is 6th February, 2021.

Mr. S. Ghosh, learned advocate for the State respondent submits that since the applicants are already over aged and the age may be relaxable by five years for exceptionally qualified person which the applicants have not been able to demonstrate in the application, no interim order may be passed. Submission is the issue in Gobinda Chandra Mondal (supra) is different from the question involved in this case. In this regard, he has relied on the judgement passed on 23rd July, 2018 in W.P.S.T. No. 53 of 2018; The Chairman, Public Service Commission, West Bengal Vs. Palash Kumar Samanta & Ors. wherein it has been held that age bar cannot be condoned.

Heard learned advocates for the parties. In view of the statements made in paragraph 6 (ix) and in ground 7 (IX) and (X) of the application and since the last date for submission of online application for the posts of Medical Technologist (Lab) Gr-III in West Bengal Health Service is 6th February, 2021, in my view a

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prima facie case has been made out for passing an interim order. Therefore, let there be an interim order directing the respondents to allow the applicants to submit applications for the posts of Medical Technologist (Lab) Gr-III in the West Bengal Health Service in hard copy format without prejudice to the rights and contentions of the parties and subject to the final order that may be passed. If the selection process is undertaken, the applicants will be allowed to participate, however, the mark sheet and answer script shall be kept in sealed cover and the result shall not be published without the leave of the Tribunal. It is made clear that this order will not create equity in favour of the applicants.

Let reply be filed by 7th May, 2021. Rejoinder, if any, by 19th May, 2021. Matter to appear under the heading "Reply, rejoinder and Objection" on 7th June, 2021.

(SOUMITRA PAL)
CHAIRMAN

BLR.