

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA 794 of 2023

Dr. Dipankar Guchhait & Ors. -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicants	: Mr. M.N. Roy, Ld. Advocate. Mr. G. Halder, Ld. Advocate. Mr. S. Bhattacharjee, Ld. Advocate.
<u>03</u> 14.03.2024	For the State respondent	: Mrs. S. Agarwal, Ld. Advocate.

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.

Affidavit of service filed be kept on record.

This application was filed with a prayer for direction to the respondent authorities to recommend the names of the applicants to the post of Homoeopathic Medical Officer. By a correspondence dated 08.09.2022, the Department of Health & Family Welfare advised the West Bengal Health Recruitment Board to recommend names to fill up the eight (08) unfilled vacancies with a fresh list of candidates from the existing panel. From the submission of Mr. Roy, it appears that the three (03) applicants in this application have scored total 82 marks as shown in the official website of the Commission. The applicants belonged to the UR category. Since the last successful candidate appearing at serial 126 had scored 82.5, submission is that out of six (06) UR vacancies, the names of three (03) applicants can be recommended. Mr. Roy also draws attention to a Notification dated 10.11.2023 in terms of the Tribunal's order in OA 01 of 2022, the Recruitment Board had recommended the name of one (01) candidate for the same post in place of one Dr. Shrabani Ray Mandal, who had not joined. The name of Dr. Shrabani Ray Mandal had also featured in the same correspondence dated 08.09.2022. Submission is that like this direction in OA 01 of 2022, the Tribunal may also direct the respondent authorities to fill up three (03) of the UR vacancies by recommending the name of these three (03) applicants who are as per their ranking eligible to fill up these posts.

Responding to the above submissions, learned counsel for the State respondents, however, submits that the validity of the panel published on 31.12.2021 had validity for only one year and such panel as of today is not valid.

ORDER SHEET

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The validity of a panel after completion of the recruitment process remains valid for one year as per Notification No. 7196-F(P) dated 02.07.2010 issued by the Finance Department. A copy of this Notification presented be kept in record. The relevant para in this Notification as shown by Mr. Mondal is as under :

“A panel should not remain valid for more than a year. The panel will automatically stand cancelled where all the notified vacant posts are filled up from the panel within the said one year from the said validity period of one year of panel”

Para 4 of the Notification states that *“at the time of publishing the panel, it is to be clearly mentioned that this panel will remain valid till all the posts as notified are filled up or for a period of one year whichever is earlier.”*

The Tribunal finds that the applicants were not successful in the recruitment process held for the post of Homoeopathic Medical Officer. It appears that having come to know that eight (08) recommended candidates either did not join or did not continue. The applicants were hopeful that these vacancies can be filled up by them. In other words, such eight (08) vacancies can be filled up by these applicants being in the waiting list. But it has not been established that the Recruitment Board has a system by which such a waiting list is prepared and can be used for filling up such vacancies at a later stage. In fact, from the submission and reference to relevant rules, it has been made clear that no such panel of wait listed candidates exists. Further attention has been drawn to a Notification No. 7196-F(P) dated 02.07.2010, by which any such panel can remain valid only for one year from the date of publication of the result. In this case, validity of such panel, if existed, has already lapsed. Therefore, the question of filling up such vacant posts by candidates in the so called waiting list does not arise. In light of above findings, this application is **disposed of** without passing any orders.

SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)