

ORDER SHEET

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, Mr. B. Nandy, Mr. S. Bhattacharjee, Ld. Advocates.
<u>01</u> 16.01.2024	For the State respondent	: Mr. R.K. Mondal, 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 fill up the eight (08) unfilled vacancies by recommending 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

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are as per their ranking eligible to fill up these posts.

Responding to the above submissions, Mr. Mondal, 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. 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.”*

Mr. Mondal, learned counsel wishes to file a reply on behalf of the respondent authorities. Let respondent no. 6, Secretary and Controller of Examinations file a reply in this matter by the next date

The matter is admitted.

Let the matter appear under the heading **“Hearing”** on **06.03.2024**.

Let a copy of the reply be served upon the other side and if served, let rejoinder, if so wished be filed by the next date.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)