

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 838 of 2023.

PRODIP KUMAR SINGHA - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

02
09.07.2024

For the Applicant : Mr. S. Bhattacharya,
Mrs. P. Sasmal,
Learned Advocates.

For the State Respondents : Mr. G.P. Banerjee,
Mr. S. Ghosh,
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.

Let Vokatnama filed by the learned counsel for the applicant be kept on record.

The applicant has prayed for setting aside the impugned order of termination of the applicant issued by respondent no. 3 dated 11.7.2017. By this impugned order, the appointment of the applicant in the post of Medical Technologist (Lab) Grade –III was terminated on the ground that he had not fulfilled the educational qualification for this post as mentioned in the advertisement. The advertisement No. R/MT/01/2014 issued by the West Bengal Health Recruitment Board had fixed Physics, Chemistry and Biology as the essential educational qualification for the post of Medical Technologist (Lab) Gr. III with two year diploma course in Laboratory Technologist recognised by the Government of West Bengal. The impugned order mentions that the applicant was though initially appointed for the post, but, subsequently it was detected that he did not possess such essential qualification- Higher Secondary with Physics, Chemistry and Biology. From a copy of the mark- sheet in this application issued by the West Bengal Council of Higher Secondary Education, it appears that the applicant, Prodip Kumar Singha had Economics, Geography and Political Science. Biology was his optional elective. The fact that the advertisement had required the candidates to have Physics, Chemistry

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and Biology in Higher Secondary is not disagreed, nor it is disputed that the applicant had some other subjects in his Higher Secondary but not Physics, Chemistry and Biology.

In support of the applicant's case, Mr. Bhattacharya, learned counsel argues that though the applicant did not have Physics, Chemistry and Biology in Higher Secondary but had acquired diplomas subsequently with Physics, Chemistry and Biology. His submission is that the applicant should be, in all fairness, given an opportunity of hearing and present these diplomas for verification.

Mr. Banerjee and Mr. Ghosh, learned counsels for the State respondents, however, do not find any valid ground in such prayers of the applicant.

Having heard the submissions of the learned counsels and considering the facts and circumstances of this case, the Tribunal finds that it is not disputed that the applicant did not possess the essential educational qualification as stipulated in the Advertisement. By human error or for reasons beyond the control of the respondent authorities, he was erroneously selected for the post of Medical Technologist (Lab) Grade -III despite not possessing the requisite qualification. Subsequently, such mistake was detected and his appointment was terminated. Like all appointments in regular posts, initially a provisional appointment is given and confirmation is subject to verification of antecedents and documents. In this case, post provisional appointment, the employer found that the applicant had not fulfilled the essential educational qualification and after consideration, they arrived at this conclusion that such offer of appointment was improper and not in accordance with the advertisement. Thus, his appointment was terminated. The Tribunal finds such decision of the Respondent authority correct and well within its legal authority.

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A wrong and invalid incidence, once detected cannot be allowed to perpetuate.

With the above observation, this application is disposed of without any orders.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

SkG/HS.

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