

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. –RA 5 of 2021 [OA 29 of 2021]

The State of West Bengal & Others - VERSUS - Dr. Pinki Khatun

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| Serial No. and Date of order <u>03</u> 27.06.2022 | For the State / State Applicant For the Applicant / Opposite Party | : Mr. S.N. Ray, Advocate. : Mr. G.P. Banerjee, Advocate. |
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The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

The Review Application has been filed by the State of West Bengal represented by the Secretary, Health and Family Welfare Department, Government of West Bengal; the Director of Homeopathy, Health and Welfare Department, Government of West Bengal and Secretary and Controller of Examinations, West Bengal Health Recruitment Board, who are respondents in the original application being OA-29 of 2021, Dr. Pinki Khatun v. State of West Bengal & Others, praying for review of the order dated 25th January, 2021 by which the original application was disposed of. Relying on the Review Application, particularly paragraph no. 5 thereof, it is submitted by Mr. S.N. Ray, learned advocate for the Applicant / State respondents since at the time of filing the application for the post of Homeopathic Medical Officers, the applicant was not having the Certificate of Registration, the order dated 25th January, 2021 may be reviewed and/or recalled.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the respondent / original applicants submits that since order was passed on 25th January, 2021 disposing of OA-29 of 2021 and as the Review Application was filed on 24th December, 2021, after a delay of about eleven months, the application may be dismissed. Referring to Section 22(3)(f) of the West Bengal Administrative Tribunals Act, 1985 and Order XLVII of the Code of Civil

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Procedure, it is submitted that as there is no discovery of new and important matter or evidence, the Review Application may be dismissed.

Heard learned advocates for the parties.

The relevant portion of the order dated 25th January, 2021 passed in OA-29 of 2021 is as under :

“... The question is whether the respondent authorities were justified in denying the applicant from appearing in the interview as she could not file the Certificate of Registration at the time of filing the application.

In my view, there is no dispute that the Provisional Certificate of Registration issued by the Council having provisional registration is genuine. As the Council at that relevant point of time could not provide the Certificate of Registration, Certificate of Provisional Registration was issued which was valid for a period of one year. That itself shows that it was deemed to be treated as original in the absence of issuance of Certificate of Registration, which was subsequently issued on 17th August, 2020. Hence, the Certificate of Provisional Registration was issued by the authorities in lieu of the Certificate of Registration. Thus, the action of the respondents in not allowing the applicant to appear in the interview for want of Certificate of Registration is uncalled for and illegal. Accordingly, The Secretary, Health and Family Welfare Department, Government of West Bengal, The Director of Homoeopathy, Directorate of Homoeopathy, Government of West Bengal and the Secretary and Controller of Examinations, West Bengal Health Recruitment Board – respondent no. 1, 2 and 3 respectively, are directed to allow the applicant to appear in the interview to be held on 27th January, 2021 or on any subsequent date, which may be fixed by the said authorities. The application is disposed of.....”

Since the question of non-submission of Certificate of Registration was

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the central issue, in view of the facts and circumstances of the case, submission of Certificate of Provisional Registration was allowed and in my view as there is no error apparent on the face of the order in question and no discovery of new and important matter or evidence, the Review Application is not maintainable and is, thus, dismissed.

(SOUMITRA PAL)
CHAIRMAN

CSM/SS