

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

Hon'ble Justice Soumitra Pal, Hon'ble Chairman &  
Hon'ble Mr. P. Ramesh Kumar, Administrative Member.

CASE NO. OA 120 of 2020.

**SAMI SAIKH – Vs- THE STATE OF WEST BENGAL AND OTHERS.**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p style="text-align: center;">3</p> <hr/> <p>4.3.2020.</p>	<p>For the Applicant : Mr. A. Maiti, Advocate.</p> <p>For the State Respondents : Mr. S. Ghosh, Advocate.</p> <p style="text-align: center;">Affidavit of service filed today be kept on record.</p> <p style="text-align: center;">In this application, the applicant who has applied for the post of District Food Safety Inspecting Officer pursuant to an advertisement, being annexure "A" to the application, has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p style="text-align: center;"><i>" a. Pass an order declaring that the applicant is eligible to participate in the selection process for recruitment to the post of District Food Safety Inspecting Officer in terms of the advertisement dated July 11, 2019.</i></p> <p style="text-align: center;"><i>b. Pass an order setting aside the rejection of the candidature of the applicant in the selection process pursuant to the advertisement dated July 11, 2019..."</i></p> <p style="text-align: center;">Referring to the advertisement, being annexure 'A' to the application, it is submitted by Mr. A.</p>	

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	<p>Maity, learned advocate for the applicant that since the applicant is a holder of a 'degree' under the qualification "Essential" and fulfils the requisite qualifications, the rejection of his candidature by the West Bengal Health Recruitment Board is unjust and illegal.</p> <p>Mr. S. Ghosh, learned advocate appearing on behalf of the State respondent submits that though the applicant is having a 'degree', since he does not have 'five years working experience' in the field of Food Safety &amp; Standards, which is required as evident from the distribution of marks, his candidature was rejected. Moreover, as the date for interview is already over and as the original application was filed on 18<sup>th</sup> February, 2020, the application may be dismissed.</p> <p>Heard learned advocate for the parties.</p> <p>In order to appreciate the issue, it is appropriate to set out the relevant portion of the "Essential" "qualification", which is as under :-</p> <p><i>"....Holder of a degree in Food Technology, or Dairy Technology, or Biotechnology, or Oil Technology, or</i></p>	

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	<p><i>Agricultural Science, or Veterinary Sciences, or Bio-Chemistry, or Microbiology, or Masters Degree in Chemistry, or Degree in Medicine from a recognized University</i></p> <p style="text-align: center;"><b><u>OR</u></b></p> <p><i>Holder of any other equivalent /recognized qualification notified by the Central Government; and at least 5 years-working experience in the field of Food Safety &amp; Standards....". (Emphasis supplied)</i></p> <p>The word 'or' emphasises that it recognizes two categories of candidates. It appears from the first part of the "essential" "qualification" a candidate holding a "degree", in the subjects mentioned therein, need not have five year working experience, whereas in the second category a candidate having "any other equivalent /recognized qualification notified by the Central Government" should have at least 5 year-working experience. Therefore a candidate holding a "degree" need not have experience which is not the case with a candidate having "any other equivalent or recognized qualification". Had the authorities thought of including experience as a qualification with regard to the</p>	

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Skg.	<p>candidates in the first part of the advertisement, it should have been mentioned in the first category. Having not mentioned about experience in the first category, the respondents now cannot contend that the “essential” “qualification” has to be read in conjunction with the distribution of marks which stipulates marks for having experience.</p> <p>Hence, the rejection of the candidature of the applicant on the ground of not having experience is uncalled for and illegal and is thus set aside and quashed. The application is allowed. Hence the West Bengal Health Recruitment Board and its Chairman, the respondent Nos. 3 and 4 respectively, are directed to consider the candidature of the applicant on merit for the post of Deputy Food Supply Inspecting Officer within four weeks from the date of presentation of a copy of the certified copy of the order.</p> <p>(P. Ramesh Kumar) Member (A)</p> <p>(Soumitra Pal) Chairman.</p>	