

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

Hon'ble Justice Soumitra Pal,
Hon'ble Mr. P. Ramesh Kumar,

Hon'ble Chairman &
Administrative Member.

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>7</p> <hr/> <p>18.12.2019.</p>	<p style="text-align: center;"><u>Case No. OA 237 of 2019.</u></p> <p style="text-align: center;">PUJA GUPTA & OTHERS –VS- THE STATE OF W.B. OTHERS.</p> <p>For the Applicant : Mr. U.N.Betal, Advocate.</p> <p>For the State Respondent : Mr. G.P.Banerjee, Mr. S. Ghosh, Advocates.</p> <p style="text-align: center;"><u>Case No. OA 251 of 2019.</u></p> <p style="text-align: center;">KRISHNA SAMANTA –VS- THE STATE OF W.B. OTHERS.</p> <p>For the Applicant : Mr. U.N.Betal, Advocate.</p> <p>For the State Respondent : Mr. G.P.Banerjee, Mr. S. Ghosh, Advocates.</p> <p style="text-align: center;"><u>Case No. OA 253 of 2019.</u></p> <p style="text-align: center;">Riya Pan –VS- THE STATE OF W.B. OTHERS.</p> <p>For the Applicant : Mr. U.N.Betal, Advocate.</p> <p>For the State Respondent : Mr. G.P.Banerjee, Mr. S. Ghosh, Advocates.</p> <p style="text-align: center;">Since issues are similar, the applications, being</p>	

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	<p>OA 237 of 2019, OA 251 of 2019 and OA 253 of 2019, appearing in the list today under the heading "Hearing" are taken up for hearing analogously.</p> <p>It is submitted by Mr. U.N. Betal, learned advocate for the applicants that though pursuant to the direction contained in the order dated 28th March, 2019, the applicants were allowed to participate in the selection process for the post of Medical Technologist (Lab) Grade III and call letters were issued for interview, however, appropriate order may be passed setting aside the cancellation of the candidature of the applicants on flimsy ground as evident from the application and as issue is covered by the judgement of the Tribunal passed on 9th December, 2016 in OA 352 of 2014 (Diptendu Chatterjee & Ors –Vs- State of West Bengal & Others) particularly the law laid down in paragraph 16 thereof.</p> <p>Mr.G.P. Banerjee and Mr. S. Ghosh, learned advocates for the respondents relying on the order dated 14th August, 2018 passed in OA 222 of 2018 (Krishna Chatterjee-Vs- The State of West Bengal & Ors) submits that as the issue in this writ application is similar to the said matter disposed of on 14th August, 2019, no order may be passed.</p>	

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	<p>In reply, it is submitted by Mr. Betal that as in OA 222 of 2019 the applicants did not proceed further as they were satisfied by participating in the selection process and as in the applications being heard the applicants are specifically praying for setting aside the order cancelling their candidatures, appropriate order may be passed on the basis of the judgement passed in Diptendu Chatterjee (supra).</p> <p>Heard learned advocates for the parties. There is no dispute that similar issue came up for hearing before the Tribunal in Diptendu Chatterjee (supra) which was disposed of by passing an order, the relevant portion of which is as under :-</p> <p><i>“.....16. Thus, having regard to the facts and circumstances of the case and the observations and decisions of the Hon’ble Supreme Court in similar cases, we hold that the Applicants who are having the degree of Bachelor of Medical Laboratory Technology or Master degree in the same filed and discipline shall be considered to have possessed the essential qualification for recruitment and their candidature cannot be rejected on the ground that they do not possess the specific qualification as laid down in the advertisement. We direct</i></p>	

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	<p><i>the respondent authorities to complete the process of recruitment accordingly.</i></p> <p><i>17. The application is allowed to the extent as aforesaid. The interim order passed earlier gets merged with this order....”.</i></p> <p>The question is whether the judgement delivered Bench on 14th August, 2019 in OA 222 of 2019 (Krishna Chatterjee –Versus- The State of West Bengal & Ors) is similar or not. In order to appreciate the issue, it is appropriate to refer to the relevant portion of the said order, which is as under :-</p> <p><i>“.....Though the matter is appearing under the heading “Reply, Rejoinder and Objection” and the State has filed reply, at the outset it is submitted by Mr. G. Halder, learned advocate appearing on behalf of the applicant, that since his client, pursuant to the interim order passed, had participated in the selection process and the results are yet to be declared, the matter may be taken up for hearing and appropriate order may be passed which is not objected to by Mr. S. Ghosh, learned advocate for the State respondents led by Mr. G.P. Banerjee, learned advocate.</i></p> <p><i>In view of the submissions made by Mr. Haldar</i></p>	

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	<p><i>and Mr. Ghosh, the matter is taken up for hearing.</i></p> <p><i>It is submitted by Mr. Halder that since the applicant has participated in the selection process for the post of Medical Technologist (Lab) Grade III, the result may be directed to be published after vacating the interim order with regard to the publication of result.</i></p> <p><i>Since it is submitted that though pursuant to the directions contained in the order dated 27th March, 2019 the applicant has participated in the selection process for the post of Medical Technologist (Lab) Grade III and the respondents are unable to publish the results due to the interim order passed in the said order, as prayed for by the learned advocates for the parties, the application is disposed of by directing the respondents to publish the results for the post of Medical Technologist (Lab) Grade III within a fortnight from the date of presentation of a copy of this order....”.</i></p> <p>We find that in Krishna Chatterjee (supra), pursuant to the interim order passed by the Tribunal, the applicant participated in the selection process and did not pursue the matter further and the matter was disposed of. Whereas it is evident from the order dated 9th December, 2016 passed in Diptendu Chatterjee</p>	

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	<p>(supra) similar issue was decided in favour of the applicant. We find that the issue raised in Diptendu Chatterjee (supra) and the issue in the matters before us are similar and hence , the applications are to succeed.</p> <p>There is another aspect of the matter. Perusing the orders cancelling the candidatures of the applicants, we find that the orders are meaningless.</p> <p>Therefore, it is appropriate to set out in verbatim one of the orders cancelling the candidatures of the applicants, which is as under :-</p> <p style="text-align: center;"><i>“Dear Candidate,</i></p> <p style="text-align: center;"><i>On farther scrutiny on subsequent document verification of document, it appears that your candidature has been cancelled for one the following reason.</i></p> <p style="text-align: center;"><i>Direct MLT after B.Sc any subject is not allowed. After B.Sc, Diploma certificate is essential as per Advt.</i></p> <p style="text-align: center;"><i>Physics, Chemistry and Biology is the one of the essential criterion in H.S. (10+2)</i></p> <p style="text-align: center;"><i>Eligibility criterion of the selection of institute was clearly published in our Advt. As per that institute not accepted.</i></p>	

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Skg.	<p style="text-align: center;"><i>Essential Document not uploaded at the time of Online Application</i></p> <p style="text-align: center;"><i>The call letter, downloaded earlier stands hereby cancelled.”. (Page 122 in OA 237 of 2019)</i></p> <p>It is clear that the communication cancelling the candidature of the applicant is vague and meaningless. Hence, for the reasons as aforesaid, the written communication cancelling the candidature of the applicants in all the matters are set aside and quashed. The applications are allowed.</p> <p>(P. Ramesh Kumar) Member (A)</p> <p style="text-align: right;">(Soumitra Pal) Chairman.</p>	