

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

The Hon'ble Justice Soumitra Pal (Chairman)  
& The Hon'ble P. Ramesh Kumar (Administrative Member)

**Case No. OA-262 OF 2019**

**ACHINTYA MODAK & ANR. Vs. THE STATE OF WEST BENGAL & ORS.**

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;">02 <u>02.04.19</u></p>	<p>For the Applicants : Mrs.S.Mitra Mr.G.Halder Advocates</p> <p>For the Respondents : Mr.S.Ghosh Advocate</p> <p>Affidavit of service filed today be kept on record. Though the matter has appeared in the list under the heading "New Application", Mrs.S.Mitra, learned advocate for the applicant submits that in view of the urgency, the matter may be taken up for Admission which Mr.S.Ghosh, learned advocate for the State respondents, in his usual fairness, does not oppose.</p> <p>Heard Mrs. Mitra, learned advocate for the applicants and also Mr. Ghosh, learned advocate for the State.</p> <p>Let reply to the original application be filed by 3<sup>rd</sup> May, 2019. Rejoinder, if any, by 17<sup>th</sup> May, 2019.</p> <p>So far as the prayer for interim order is concerned , it is submitted by Mrs. Mitra that since an</p>	

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	<p>interim order was passed on 28<sup>th</sup> March, 2019 in a similar matter being OA 237 of 2019 (Puja Gupta &amp; Ors-Vs- The State of West Bengal &amp; Ors), appropriate order may be passed. Moreover so far as the question of over age is concerned, relying on the judgement passed on 18<sup>th</sup> June, 2018 in OA 401 of 2018 (Tapas Kumar Das &amp; Others -Versus- The State of West Bengal &amp; Others), it is submitted that as the applicants in this application are within the age limit as prescribed in the advertisement appropriate order may be passed. Moreover, no writ petition was filed before the High Court challenging the said order.</p> <p>Mr. Ghosh, learned advocate for the State respondent referring to the order passed in OA 237 of 2019 submits that since the question of relaxation of age has been set at rest by the order passed by the High Court on 23<sup>rd</sup> July, 2018 in WPST No. 53 of 2018 (The Chairman, Public Service Commission, West Bengal -Vs- Palash Kumar Samanta &amp; Ors) whereby the High Court had set aside the relaxation of age of the applicants by the Tribunal, no order may be passed. It is further submitted that the University/Institutions from which the applicants</p>	

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	<p>have obtained degree/diploma/certificate are not affiliated to the State Medical Faculty of West Bengal.</p> <p>Considering the facts and circumstances of this case, let there be an interim order directing the Secretary and Controller of Examinations, West Bengal Health Recruitment Board, respondent no. 3 to allow the applicants to participate in the selection process for the post of Medical Technologist (Lab) Grade-III subject to compliance of other formalities and subject to the age bar in view of the order passed by the High Court on 23<sup>rd</sup> July, 2018 in W.P.S.T. No. 53 of 2018 without prejudice to the rights and contentions of the parties and subject to further orders which may be passed. Let the mark sheets of the applicants be kept in a sealed cover and the result will not be published without leave of the Tribunal. It is made clear that this order will not create any right or equity in favour of the applicants.</p> <p>Let the matter appear under the heading "Reply/Rejoinder and further order" on 22<sup>nd</sup> May, 2019.</p>	

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BLR	<p>Learned advocates for the parties are permitted to take down the gist of this order for communication to the respondents, including the respondent no. 3, who shall act on the basis of such communication.</p> <p><b>(P. RAMESH KUMAR)</b> <b>MEMBER (A)</b></p> <p><b>(SOUMITRA PAL)</b> <b>CHAIRMAN</b></p>	