

**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-754 OF 2019**

**DR SATYAJIT MAITI Vs. THE STATE OF WEST BENGAL & 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;"><u>01</u> 20.09.19</p>	<p>For the Applicant : Mr.G.P.Banerjee Mr.A.Samad Advocate</p> <p>For the Respondent : Mr.S.Ghosh Advocate</p> <p>Affidavit of service filed today be kept on record. In view of the urgency the matter is taken up for hearing under the heading "New Application".</p> <p>In this application, the applicant, a Medical Officer (School Health) at Government Hospital on contractual basis, has prayed for a certain reliefs, the relevant portion of which is as under:</p> <p style="text-align: center;">“(a) A direction do issue upon the concerned respondents authorities, to forthwith condoned the applicant’s age-limit as well as to allow the applicant to submit his application for the post of “Lecturer in the West Bengal Homeopathic Education Service” (Organon of</p>	

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Form No. ....

Vs.

The State of West Bengal & Ors.  
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	<p>Medicine, Repertory, Practice of Medicine &amp; Community Medicine) under the Health &amp; Family Welfare Department, Government of West Bengal through online or in any other process in right consideration of the prayer for such of the applicant dated 16.09.2019, being Annexure "D" herein thereby enabling him to appear before the Selection Committee/Interview along with other aspirants and to command to act in accordance with law;"</p> <p>It is submitted by Mr.G.P.Banerjee, learned advocate appearing on behalf of the applicant, that in view of the law laid down in Gobinda Chandra Mondal Vs. Principal, Rabindra Mahavidyalaya; 2013 (1) CHN (CAL) 9, particularly in paragraph 25 thereof, the applicant is entitled to participate in the selection process after condoning the age bar and interim order may be passed as the last date for filing online application is 24<sup>th</sup> September, 2019.</p>	

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	<p>Mr.S.Ghosh, learned advocate for the State respondent submits that since the applicant is already 41 years of age and the age may be relaxable by five years for exceptionally qualified person which the applicant has not been able to demonstrate in the application, no interim order may be passed. Submission is the issue in Gobinda Chandra Mondal (supra) is different from the question involved in this case. In this regard, he has relied on the judgement passed on 23<sup>rd</sup> July, 2018 in W.P.S.T. No. 53 of 2018; The Chairman, Public Service Commission, West Bengal Vs. Palash Kumar Samanta &amp; Ors. wherein it has been held that age bar cannot be condoned.</p> <p>Heard learned advocates for the parties. In view of the statements made in paragraph 6 (q) and in ground (vii) of the application and since the last date for submission of online application for the post of Lecturer in the West Bengal Homeopathic Education Service is 24<sup>th</sup> September, 2019, in our view a prima facie case has been made out for passing an interim order. Therefore, let there be an interim order directing</p>	

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BLR	<p>the respondents to allow the applicant to submit an application for the post of Lecturer in the West Bengal Homeopathic Education Service in hard copy format without prejudice to the rights and contentions of the parties and subject to the final order that may be passed. If the selection process is undertaken, the applicant will be allowed to participate, however, the mark sheet and answer script shall be kept in sealed cover and the result shall not be published without the leave of the Tribunal. It is made clear that this order will not create equity in favour of the applicant.</p> <p>Let reply be filed by 15<sup>th</sup> November, 2019. Rejoinder, if any, by 22<sup>nd</sup> November, 2019. Matter to appear under the heading "Reply, rejoinder and Objection" on 3<sup>rd</sup> December, 2019.</p> <p>Let plain copies of this order be given to the parties on usual undertaking.</p> <p><b>(P. RAMESH KUMAR)</b> <b>MEMBER (A)</b></p> <p><b>(SOUMITRA PAL)</b> <b>CHAIRMAN</b></p>	