

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

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Subesh Kumar Das

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><u>01</u> 06.06.18</p>	<p>Case No. OA-382 OF 2018 : DIPAK DAS & 2 Ors. Vs. State of West Bengal & Ors.</p> <p>For the Applicant : Mr. G. P. Banerjee Mrs. Samapti Roy Learned Advocate</p> <p>For the Respondent : Mr. S. Ghosh Learned Advocate</p> <p>Case No. OA-383 OF 2018 : ASHOK KUMAR CHATTERJEE Vs. State of West Bengal & Ors.</p> <p>For the Applicant : Mr. G. P. Banerjee Mrs. Samapti Roy Learned Advocate</p> <p>For the Respondent : Mr .S. Ghosh Learned Advocate</p> <p>Liberty is given to file O.A. No. 383 of 2018 and to move the same before this Bench as unlisted application upon notice to the other side.</p> <p>O.A. No. 382 of 2018 and O.A. No. 383 of 2018 are taken up for hearing as both the applications can be disposed of by common order.</p> <p>The common question involved in both original applications is whether the applicants working as</p>	

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	<p>Medical Technologists on contractual basis will be allowed to participate in the selection process for recruitment to the post of Medical Technologist Grade-III of different categories in response to the advertisement dated May 28, 2018 issued by the Respondent No.3 by way of relaxation of age bar.</p> <p>Two (2) applicants of two (2) original applications have been working as Medical Technologists on contractual basis in different Institutes. All these applicants are willing to participate in the selection process for recruitment to the post of Medical Technologists Grade-III of different categories in the scale of pay of Rs. 7,100/- - Rs. 37,600/- (Pay Band -3 with Grade Pay Rs. 3,600) and other allowances admissible as per existing rules in response to the advertisement dated May 28, 2018 issued by the Respondent No.3. The common contention of both the applicants is that they have crossed the maximum age limit as mentioned in the advertisement for the purpose of participation in the selection process. However, the other common contention made on behalf of the applicants is that both of them have other essential qualifications for recruitment to the post of Medical</p>	

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	<p>Technologists of different categories as mentioned in the advertisement. It is relevant to point out that the applicants are willing to participate in the selection process by submitting the application within the prescribed time limit as mentioned in the advertisement, but they apprehend that their applications will be rejected for crossing the maximum age limit prescribed in the advertisement.</p> <p>Now, the question for consideration of the Tribunal is whether the applicants can be granted permission to participate in the selection process by the relaxation of age bar mentioned in the advertisement. Mr. Banerjee, Learned Counsel appearing for the applicants has referred to order dated March 7, 2014 passed by this Tribunal in OA- 281 of 2014 (Ashim Nayak & 13 Ors. V. State of West Bengal & Ors.), order dated March 10, 2016 passed by the Hon'ble High Court in WPST No.125 of 2014 with CAN No. 2159 of 2016 (Dipak Saha & Others V. State of West Bengal & Ors.) and the decision of the Hon'ble Supreme Court in "Keshav Narayan Gupta & Ors. V. Jila Parishad, Shivpuri (MP) & Anr." reported in (1998) 9 SCC 78 and submitted that the Tribunal can grant permission to the</p>	

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	<p>applicants to participate in the selection process by relaxation of the age bar, if the applicants are otherwise eligible to apply for the post of Medical Technologists Grade-III of different categories as mentioned in the advertisement. Mr. S. Ghosh, Learned Counsel representing the State Respondents contends that the applicants should submit the application both online and by filing one hard copy of the application before the Respondent No.3 within the prescribed time limit mentioned in the advertisement. He further submits that relaxation of age should have some limitation and the said limitation may be fixed by the Tribunal.</p> <p>On consideration of order dated March 7, 2014 passed by the Tribunal in "Ashim Nayak & 13 Ors. V. State of West Bengal & Ors." (Supra), we find that in the said case this Tribunal gave direction to the respondents to allow the applicants to participate in the selection process for recruitment to the post of Medical Technologist Grade -III of different categories by way of relaxation of age, subject to fulfilment of other eligibility criteria. Similarly, in the case of "Dipak Saha & Others V. State of West Bengal & Ors" (Supra), the Hon'ble High Court also gave direction to the concerned respondents</p>	

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	<p>to allow the applicants to participate in the selection process by relaxation of upper age limit, subject to fulfilment of other eligibility criteria for selection to the post. In "Keshav Narayan Gupta & Ors. V. Jila Parishad, Shivpuri (MP) & Anr." (Supra) the Hon'ble Supreme Court dealt with the case of one person who was working temporarily as Lower Division Clerk for a period of almost twelve (12) years with short period of break. There was some irregularity in the said appointment on temporary basis. The Hon'ble Supreme Court gave direction that when regular appointment to the post of Lower Division Clerk will be made, the case of the concerned applicant must be considered along with other fresh applicants by waiving the age bar in case of the concerned applicant, if necessary. By following the decision of the above cases, we are of the view that the applicants who have been working in the posts of Medical Technologists of different categories on contractual basis for prolonged period of time should not be deprived of the opportunity to participate in the fresh selection process for crossing maximum age limit mentioned in the advertisement. If the applicants are willing to participate in the fresh selection process for recruitment to the post of Medical Technologist Grade-III</p>	

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	<p>of different categories on the basis of the advertisement, they should be given the opportunity to participate in the selection process by relaxation of maximum age limit as per advertisement, as the applicants have already been working in the posts of Medical Technologist on contractual basis under the same department.</p> <p>Accordingly, we direct the Respondent No.3, Secretary and Controller of Examination, West Bengal Health Recruitment Board to allow both the applicants of two (2) original applications to participate in the selection process by relaxation of age bar as mentioned in the advertisement dated May 28, 2018, subject to fulfilment of other eligibility criteria. The applicants are at liberty to fill up the form online within the prescribed time limit mentioned in the advertisement dated May 28, 2018. The applicants are also directed to submit hard copy of the application before the Respondent No. 3 within the prescribed time limit given in the advertisement, so that the Respondent No.3 may take precautionary measures of not rejecting the applications of these two (2) applicants on the ground of age bar. The Respondent No. 3 is directed to ensure acceptance of hard copy of the applications from two (2) applicants</p>	

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SCN.	<p>within the prescribed time limit given in the advertisement dated May 28, 2018. With the above directions, both the original applications stand disposed of.</p> <p>Let an urgent plain copy of the order be supplied to both parties forthwith. The parties are directed to act upon plain copy of the order.</p> <p style="text-align: center;"> (S.K.Das) MEMBER(A) </p> <p style="text-align: center;"> (R.K.Bag) MEMBER (J) </p>	