

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER**

**Case No. – OA 141 of 2024**

**Dr. Arindam Banerjee - Vs - The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicant

:

Mr. M.N. Roy,  
Mr. G. Halder,  
Learned Advocates.

02

14.05.2024

For the respondents

Mr. G.P. Banerjee,  
Learned Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

In this application, Dr. Arindam Banerjee, the applicant has prayer for several reliefs, the relevant portion of which is as under :-

- a) An order do issue thereby directing the respondent authorities to award 04 marks in favour of the applicant for having two publications as per the marks distribution pattern specified in Advertisement so published by the respondent no. 4 herein and thereafter to add the same to the total marks of 72 obtained by the applicant and to re-publish the fresh marks in accordance with law within a stipulated time period.
- b) An order do issue directing the concerned respondent authorities to forthwith issue appointment letter in favour of the applicant herein for the post of Dental Surgeon cum Clinical Tutor in the Cadre of West Bengal Dental Education Service in the Department of Health & Family Welfare, Government of West Bengal in accordance with law within a stipulated time period.

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- c) An order do issue thereby directing the respondent authorities to treat the applicant herein as similarly circumstanced with Dr. Debojyoti Mondal and issue your applicant the appointment letter for the post of Dental Surgeon cum Clinical Tutor in the cadre of West Bengal Dental Education Service in the Department of Health & Family Welfare, Government of West Bengal within a stipulated time period.

The applicant enrolled himself as Bachelor of Dental Surgeon in 1998 and passed the examination in 2003 from Calcutta University. He worked under West Bengal Dental Service since 2009. Thereafter, the applicant enrolled himself for Master of Dental Surgery Degree in 2012 and passed the examination and was conferred the Degree of Master of Dental Surgery in the year 2015 by the West Bengal University of Health Sciences.

On 9<sup>th</sup> October, 2018, the West Bengal Health Recruitment Board issued an advertisement for the post of Dental Surgeon cum Clinical Tutor/Demonstrator in West Bengal Dental Education Service under Health and Family Welfare Department, Government of West Bengal. In the said advertisement annexed to the application, it was mentioned that one year professional experience is an essential qualification for the post. He appeared in the interview and documents were verified in the office of the respondent no. 4. Thereafter, fifty-one candidates were recommended for the said post. Subsequently, a second list of four recommended candidates was published. However, the name of the applicant did not appear in any of the lists. On 30.08.2019, the applicant made an application under the Right to Information Act, 2005 before the State Information Officer and Deputy Secretary to the

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Government of West Bengal, West Bengal Health Recruitment Board. The applicant received the reply dated 24.09.2019 wherefrom he found that he had obtained 72 marks in the selection process and the last selected candidate had scored 73.5 marks. Though under the advertisement under the heading "Publication" ten marks (maximum) were allotted for two publications and though two publications were submitted by him, he was not awarded any marks for said publications.

Mr. Roy, learned advocate for the applicant submits that though two publications of the applicant were published, the respondent no. 4 erred in not awarding marks for two publications, which were published in two journals "Journal of Indian Dental Association" and in "Biotechnology in Human Welfare" as have been mentioned in the original application.

From the reply under 2005 Act, it appears that 73.5 marks was awarded to the last recommended candidate and the applicant had secured 72 marks. Therefore, he did not come within the zone of consideration.

With regard to publication in two journals, as stipulated in the advertisement under the heading "Publication", the Tribunal finds that the West Bengal Health Recruitment Board by intimation dated 24.9.2019 appearing at page 15 of the application had stated that the applicant got "0" (Zero) marks for publication.

During hearing the two journals containing the two publications of the applicant annexed at page 34 and 35, it is found that those were published in "Journal of Indian Dental Association" and "Biotechnology in Human Welfare".

Pursuing the reply filed by the authorities pursuant to the R.T.I. application, it is surprising that though the advertisement does not speak

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of publication in index journals surprisingly rejection was made on the ground that the publications of the applicant were not original and not published in the index journal, which is unjust and illegal. Consideration should have been simply on the basis of advertisement.

So far as the publications of the applicant in two journals are concerned, the Respondent No. 4, Secretary & Controller of Examination of West Bengal Health Recruitment Board shall give a hearing to the applicant who shall present the said two journals "Journal of Indian Dental Association" and "Biotechnology in Human Welfare" and scrutinise whether his publications have been published and the Respondent No. 4 shall pass a reasoned order strictly in consonance with the advertisement wherein there was no mention about publication in the index journals. If it is found that indeed there were two publications by the applicant, the Respondent No. 4 shall allot marks to the applicant accordingly.

These above mentioned directions regarding two publications by the applicant shall be carried out by the Respondent No. 4, Secretary and Controller of Examinations of West Bengal Health Recruitment Board within a period of eight weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal.

The application is allowed in part.

**(SAYEED AHMED BABA)**  
**OFFICIATING CHAIRPERSON AND MEMBER (A)**

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