

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 58 of 2024

Dr. Krishnendu Saha and Another. - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicants	: Dr. K. Saha, Dr. C. P. Verma, Appearing in person.
<u>04</u> 15.05.2024.	For the State Respondents	: Mr. S. Ghosh, 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.

The West Bengal Health Recruitment Board published a notice for recruitment to the post of Homoeopathy Lecturer under different fields of specialisation dated 16.10.2023. The applicants though desired, but could not participate due to their overage. The upper age limit being 40 years was exceeded by applicant Dr. Saha who was 57 years and Dr. Verma at 50 years on the day the advertisement was issued.

In a similar case, the Hon'ble High Court in W.P.S.T. 47 of 2024 had refused to pass any interim relief to the applicants and advised the Tribunal to hear the matter expeditiously on merits. The relevant part of the order is as :-

“In view thereof, the petitioner’s prayer for interim relief is refused. We have been informed that both the petitioners have crossed the age of 50 years and as such, in our opinion, the issue raised by the petitioners before the learned Tribunal should be decided expeditiously. Accordingly, we direct the learned Tribunal to dispose of the original application on merits without being influenced by any of the observation made in the order dated 11th March, 2024 on the returnable date or as expeditiously.”

The Tribunal has been enlightened by submission from the State respondents that on a similar prayer by another set of applicants,

ORDER SHEET

Form No.

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this Tribunal in OA-5811 of 2008 observed that the applicants were not entitled to get any relief. The relevant part of the order is as :-

“We, however, after going through the parent Rule of 1983 and going through the advertisement of 2008 feel that, there was certainly some omission in the advertisement itself and for this reason to remove all controversy in future, we will direct the appointing authority to make explicit provision for age relaxation for exceptionally qualified candidates as per extant rules.

To sum up from our discussion, when we hold that there is nothing to challenge the constitutional validity of the Act of 2007, we observe that the petitioners are not entitled to get any relief regarding continuation of office by the 29 persons and at the same time they cannot call in question the appointment of those persons who were recruited following the advertisement of June 2008”.

Dr. Saha presents written notes of argument, and its copy served upon Mr. Ghosh. Let further submissions be heard on the next date. Since the Tribunal is functioning with a limited capacity of only one Member (Administrative), let this matter be heard on 26.11.2024 under the heading “Further Hearing”.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A)

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