

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

**The Hon'ble Justice Soumitra Pal**  
**& The Hon'ble P. Ramesh Kumar.**

**Case No –OA-1140 of 2016.**

**Dr. Pijush Kanti Dey. –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;"><b>14</b> <b>12.09.2018</b></p>	<p><b>For the Applicant : Mr. Goutam Pathak Banerjee, Advocate.</b></p> <p><b>For the Respondents : Mr. Soumendra Narayan Ray, Advocate.</b></p> <p>In this application, the applicant, who is qualified as BDS, has prayed for a direction upon the respondents to recommend his name for appointment to the post of "Dental Surgeon" in the cadre of West Bengal Dental Service under the Department of Health and Family Welfare, Government of West Bengal on the basis of both interview and marks obtained in various academic examinations by the candidates and not solely on the basis of the marks obtained by the candidates in the interview.</p> <p>Mr. Goutam Pathak Banerjee, learned advocate appearing on behalf of the applicant submits that though the essential qualification as seen from the advertisement appearing at page-11 of this application prescribed was that one should have a BDS Degree from any University recognised by Dental Council of India under Dentist Act, 1948 and though it was never mentioned that experience would be counted at the time of selection, however, it is evident from an RTI</p>	

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	<p>application, appearing at pages-25 and 26 of the application, that experience has been taken into account for evaluating the performance of the candidates which is contrary to the advertisement.</p> <p>Though the State has not used reply, Mr. Soumendra Narayan Ray, learned advocate appearing on behalf of the respondents submits, on instruction, that the applicant belongs to the General category. A total number of 1207 candidates were found eligible. The applicant ranked 301; the last successful selected candidate ranked 77<sup>th</sup> in the said category. Submission is the advertisement mentioned that an applicant should have BDS Degree. However, as experience is essential for a surgeon during evaluation it was also taken into account. Though the applicant did not find place among the list of successful selected candidates, it is evident from paragraph 6 of the reply to the RTI application that his name was included in the list of eligible candidates.</p> <p>Heard Mr. Banerjee and Mr. Ray.</p> <p>True the advertisement stipulates that BDS Degree from any University recognised by Dental Council of India is the essential qualification for</p>	

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	<p>appointment as a "Dental Surgeon". There is no mention of having experience in dental surgery. However, while selecting candidates the authority had taken into consideration not only the degree but also the past experience of each of the candidates.</p> <p>Though the advertisement did not mention for taking into account the working experience of a candidate, however, it has to be borne in mind that for being appointed as a dental surgeon practical experience is absolutely necessary. A candidate appointed as Surgeon, besides having theoretical knowledge should have practical knowledge. Practical knowledge is gathered by experience. Hence, the authorities were justified in taking note of the experience of the candidates. Therefore, in our view evaluation made by the authorities was just and proper. We also find that though the name of the applicant finds mention in the list of eligible candidates, however, appointment could not be given as no vacancy exists. Therefore, no order can be passed on this application. The application is disposed of.</p> <p>Later :</p> <p>After order is delivered Mr. Banerjee, learned</p>	

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	<p>advocate for the applicant submits that since a representation has been filed before the Principal Secretary, Health and Family Welfare Department, Government of West Bengal on 15<sup>th</sup> September, 2016 it may be directed to be considered.</p> <p>In view of such submission the Principal Secretary, Health and Family Welfare Department, Government of West Bengal, Kolkata, now designated as Additional Chief Secretary, Health and Family Welfare Department, Respondent no.-1 shall dispose of the representation, appearing at page-27 of this original application, by passing a reasoned order to be communicated to the parties within four weeks from the date of presenting a copy of this order after giving an opportunity of hearing and after verifying the record.</p> <p><b>(P. RAMESH KUMAR)</b> <b>MEMBER (A)</b></p> <p><b>(SOUMITRA PAL)</b> <b>CHAIRMAN</b></p>	

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