

16.11.2021  
D/L No.15  
Court No.4  
sp

**WPST 79 of 2021**

*Satyajit Mondal*

*Vs.*

*The State of West Bengal & Ors.*

**(Through Video Conference)**

Mr. Mrinal Kanti Sarkar

... .. for the petitioner

Ms. Chaitali Bhattacharya

...for the State respondents

The present writ petition has been preferred challenging an order dated 13<sup>th</sup> August, 2021 passed by the learned West Bengal Administrative Tribunal.

Mr. Sarkar, learned advocate appearing for the petitioner submits that to fill up the post of Physiotherapist Grade III, an advertisement was published and an *online* form was issued. In the same, there was a specific column towards '*Work Experience*' of a candidate both in Government Sector and in non-Government Sector. As the petitioner has experience of more than ten years in non-Government Sector, the form was accordingly filled. Upon consideration of the same, the petitioner was called for document verification-cum-interview and a checklist was provided. Surprisingly, in the said checklist, there was no column towards experience certificate pertaining to non-Government Sector which is clearly contrary to the *online* form issued by the respondents themselves earlier. In view thereof, the respondents cannot now deny to grant appropriate marks to the petitioner towards his work experience in non-Government Sector. Ventilating such grievance, the petitioner approached the learned Tribunal but the petitioner's

application was dismissed without considering the arguments as advanced and without disclosing cogent grounds.

*Per contra*, Ms. Bhattacharya, learned advocate appearing for the State submits that in the selection process pertaining to the Advertisement No. R/MT/Phar./Physio/82/4/2019 there is no provision towards allotment of marks in respect of work experience in non-Government Sector. In support of such contention, she draws out attention to the contents of the advertisement, particularly the Clause, namely, '*Distribution Pattern of Marks or the Post of Physiotherapist Grade III*'. The *online* form which was filled up by the petitioner also does not specifically state that work experience in non-Government Sector would be taken into consideration. Upon filling up the said form and disclosing the work experience in non-Government Sector, the petitioner does not earn any right towards appointment to the said post. Answering a query of this Court, she submits that till date no merit list has been published.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

In the Advertisement No. R MT/Phar./Physio/82/4/2019 under Clause, namely, '*Distribution Pattern of Marks or the Post of Physiotherapist Grade III*' there is no provision that work experience in non-Government Sector would be taken into consideration and as such there is no irregularity in the observation of the learned Tribunal that "*Though the form contained a column regarding working experience in the non-Government sector, however, it cannot override the stipulations in the advertisement regulating the selection process. The*

*examiners award marks on the basis of the directions and/or stipulations in the advertisement”.*

The learned Tribunal upon considering the factual issues had arrived at a specific findings and we do not find any error in the same.

In view thereof, we are unable to grant relief as prayed by the petitioner and the writ petition being WPST No. 79 of 2021 is dismissed.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on completion of all necessary formalities.

**(Sugato Majumdar, J.)**

**(Tapabrata Chakraborty)**