

06.06.2022
Item No.4
Crt. No.11.
KB

**MAT 494 of 2021
with
IA No. CAN 1 of 2021
with
CAN 2 of 2022**

**Radhagobinda Das & Ors.
-Versus-
The State of West Bengal & Ors.**

**Mr. Shamim-ul-Bari
Mr. Atarul Hoque
... For the Appellants**

**Mr. Tapan Kumar Mukherjee
Mr. Pranab Kumar Halder
... For the State.**

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

This appeal is directed against the order dated 19th March, 2021 in W.P.A. 6222 of 2020 passed by the Hon'ble Single Bench in the writ petition.

The Hon'ble Single Bench found no illegality in the step taken by the State-respondents to revise the Terms of Recruitment (*TOR*) for recruiting Pharmacists under the Rashtriya Bal Swasthya Karyakram (*RBSK*) Scheme (for short referred to as the *RBSK* Scheme).

Mr. Bari, Learned Counsel appearing for the appellants/writ petitioners, submits that the State-respondents substituted the previous *TOR* for selection

of Pharmacists under the *RBSK* Scheme as framed by the Recruitment Notice of the Health and Family Welfare Department, Government of West Bengal dated 29th March, 2018 by removing Diploma in Pharmacy (D. Pharma) as an essential qualification.

It is further submitted that the new *TOR* introduced by the State-respondents, purportedly upon obtaining legal opinion, provides co-equal entry to both D. Pharma and Bachelor of Pharmacy (B.Pharma) candidates by treating both the degrees as the entry level qualifications for being eligible to apply. Mr. Bari points out that the previous *TOR* catered to the aspirations of all candidates by earmarking D. Pharma as the essential qualification to apply and granting additional marks to both B. Pharma and M. Pharma degree holders. It is submitted that even in 2013, when a similar issue cropped up, the D. Pharma qualification was treated to be the *minimum* entry level qualification to apply.

Per Contra, Mr. Halder, Learned Counsel appearing for the State-respondents, submits that *qua* the previous *TOR* of 2018 it was discovered by the State-respondents at the screening stage that a number of eligible candidates holding B. Pharma and M. Pharma degrees could not even apply because they did not possess the D. Pharma degree. Hence, in order to create a level playing field, it was considered necessary to provide both for D.

Pharma and B. Pharma qualifications as the entry-level eligibility so that all candidates stood equally positioned to apply.

It is further submitted by Mr. Halder, Learned Counsel, that at this stage of the recruitment process the appellants/writ petitioners do not enjoy a vested right to claim re-drawing of the *TOR*. Such claim of the appellants/writ petitioners has been correctly dismissed by the Hon'ble Single Bench on the strength of the decision in *Manoj Manu & Anr. Vs. Union of India & Ors.* reported in (2013) 12 Supreme Court Cases 171.

This matter has been heard on several dates by this Court. The State-respondents were permitted to file a Report. The appellants were also permitted to traverse such Report.

Upon hearing the parties and considering the materials placed, this Court finds that there is no reason to interfere with the step taken by the State-respondents to create a level playing field for candidates to apply for the posts-in-issue.

From the Report of the State-respondents, it further transpires that the *Allotment of Marks/Scale of Scoring* has been equally distributed between D. Pharma and B. Pharma candidates notwithstanding that the latter is, on paper, a higher degree. Such has been done with the intent of providing a level playing field.

Furthermore, this Court is also restrained from interfering in a policy decision taken by the State-respondents at a stage when the appellants/the writ petitioners cannot complain of infringement of any vested right at the pre-selection level.

For the above reasons, the order impugned requires no interference.

Since further affidavits are not necessary, neither are they invited. All other allegations are accordingly deemed to be denied.

MAT 494 of 2021 with **I.A. No. CAN 1 of 2021** and **CAN 2 of 2022** stand thus **disposed of**.

All parties to act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Ananda Kumar Mukherjee, J.) (Subrata Talukdar, J.)