

22.04.2025
(D/L 04)
(SKB)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

WPST 2 of 2025

Tanmoy Bhattacharya
Versus
The State of West Bengal and others

Mr. Sayan De,
Ms. Esha Acharya
... for the petitioner.

Ms. Bedashruti Bose,
Ms. Rima Sarkar
... for the State.

Mr. Ekramul Bari,
Sk. Intiaj Uddin,
Ms. Rinka Chakraborty
... for the respondent Nos.4&5.

1. The petitioner is aggrieved by the dismissal of his Original Application bearing No. 594 of 2024 dated 21.03.2025 by the West Bengal Administrative Tribunal (in short 'SAT').
2. Heard the learned counsel for the petitioner as well as the learned counsel for the State and the learned counsel for the private respondent nos.4 & 5.
3. The petitioner participated in the process of recruitment of physiotherapists. The process culminated in publication of a panel for physiotherapist Grade-III on 20.12.2019. The panel comprised of 30 persons. On the same date, the respondent West Bengal Health

Recruitment Board published overall performance of all eligible candidates including those who are selected for physiotherapist Grade-III. In the list of overall performance the petitioner's name figured at serial no.35 having a total of 74.83 marks. He thereafter made applications under the RTI Act. He sought information as to the manner in which marks were awarded under different parameters including work experience.

4. The replies to his queries under the RTI Act were supplied by the respondent authorities on several dates including the replies dated 19.11.2022 and 15.02.2023. It is apparent from perusal of the queries made by the petitioner and the response under the RTI Act that the petitioner was primarily aggrieved by the award of marks on the parameter of work experience. The petitioner had been awarded 4 marks, which, according to him, was insufficient. According to the petitioner, he ought to have been awarded 6 marks on this parameter.
5. It is apparent that the petitioner was placed at serial 35 in the overall performance. The panel of physiotherapist Grade-III was limited to 30 candidates only. This fact was known to the

petitioner since 20.12.2019 when the overall performance and the panel was published.

6. Insofar as the petitioner's grievance of being awarded lesser marks for experience, the stand of the respondents in this regard, supporting award of such marks to the petitioner was known to the petitioner since replies were given under the RTI on 01.11.2022, 19.11.2022 and 15.02.2023. The petitioner, however, choose not to approach any forum for raising his grievance in this regard and continued only to make representations to the authorities.
7. Nearly two years after the last information was supplied to the petitioner under the RTI (15.02.2023), the respondents came up with the order appointing physiotherapist, as a result of the recruitment process wherein the petitioner participated. One Prasenjit Koley, Gitasree Pahadi and Surajit Shil have been appointed and posted to the respective posts on 13.11.2024. It is only thereafter the petitioner has filed the original application assailing the appointment order dated 13.11.2024. The petitioner has primarily sought the relief in the O.A. for a direction upon the respondents to enhance the marks awarded to him in the recruitment process and on basis of enhanced marks to

recast the panel afresh. The Tribunal has rejected the petitioner's O.A. on the ground of the same being belated.

8. The learned counsel for the petitioner submits that the petitioner has not been awarded the correct marks under the parameter of work experience. If the petitioner was to be granted due marks by adding 4 marks to his awarded 74.83 marks, he would immediately be placed above two candidates, namely, Prosenjit Koley and Gitasree Pahari since both of these candidates had secured 76.58 and 76.41 marks. If 4 marks were to be added to the petitioner's marks 74.83, the same would come to 78.83 and, therefore, the petitioner would be entitled to the appointment in place of these two persons.
9. The learned counsel for the respondents, on the other hand, submits that the order of the SAT requires no interference. The Tribunal has rightly rejected the petitioner's O.A. as being belated.
10. On consideration of the rival submissions and upon going through the record, it is evident that the overall performance of all eligible candidates was published way back on 20.12.2019. The panel for physiotherapist containing 30 candidates was also published on

the same date. The information sought by the petitioner under the RTI was also furnished to the petitioner on 01.11.2022, 19.11.2022 and 15.02.2023.

11. The petitioner, however, has taken no steps to approach the Tribunal by raising a grievance. The petitioner was all along knowing that the panel had been published only of 30 candidates and the petitioner had been placed in serial 35 in the overall performance. The petitioner, however, has chosen not to take up the issue. It is only about two years thereafter that the petitioner has assailed the appointment order dated 13.11.2024. Even in the O.A, we find that the appointment order has been challenged without assailing the overall performance dated 20.12.2019 as well as the panel dated 20.12.2019.

12. We are of the considered opinion that the petitioner has procrastinated in the matter and has also claimed a relief without challenging the overall performance and panel dated 20.12.2019, which cannot be permitted.

13. The fact that the petitioner has approached the Tribunal in a casual manner is obvious from the above noted facts. It is further taking note of the fact that at least 34 persons

have been placed above the petitioner in the overall performance. Without questioning the overall performance dated 20.12.2019 and in absence at least these 34 candidates, the petitioner cannot be permitted to assail the appointment order dated 13.11.2024 which is based on the overall performance dated 20.12.2019.

14. Another aspect of the matter is that the petitioner has approached the Tribunal seeking a relief for enhancement of his marks. The nature of relief claimed by the petitioner seeking reappreciation of marks and a positive direction to enhance the marks, is clearly beyond the scope of judicial review, being the limits within which the Tribunal or this Court under Article 226 of the Constitution of India exercises its jurisdiction.

15. In view of the consideration above, we find no infirmity in the order of the Tribunal rejecting the O.A. filed by the petitioner. The order of the Tribunal requires no interference.

16. The writ petition is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)