

S/L 05
05.02.2026
Court No.04
B.K.N

W.P.S.T. 54 of 2021
Dr. Krishna Gopal Roy
Vs.
The State of West Bengal & Ors.

Mr. Shamik Chatterjee,
Mr. Souma Subhra Ray,
Ms. Neelam Kumari

...for the Petitioner.

Mr. Tulshi Das Ray

...for the State.

1. Heard the learned advocate for the applicant/writ petitioner.
2. An advertisement was published on 18.09.2018 by the West Bengal Health Recruitment Board. The same was for the purpose of carrying on the recruitment of Ayurvedic Medical Officers. The recruitment process culminated in publication of a result on 13.09.2019. An Original Application was thereafter filed by the present writ petitioner, which for reasons which are incapable of being ascertained for want of such details in the pleadings, was withdrawn with liberty to file Original Application afresh.
3. A fresh Original Application bearing O.A. No. 415 of 2020 was filed by the writ petitioner/applicant praying for the following relief:

“7. RELIEF(S) SOUGHT:

In view of the facts mentioned in Paragraph No. 6 herein above, the applicant prays for the following reliefs(s):-

- a) To pass an appropriate order directing the respondent authority to show cause as to why the impugned employment being Advt. No. R/Sr. Ayur. M.O./55(1)/2018, dated 09.10.2018 should not be quashed and/or set aside as the said notice has been issued by the respondent authority beyond its jurisdiction and contrary with the provision of West Bengal State Ayurvedic Medical Service Act, 2002;*
- b) To pass a mandatory order directing the respondent authority to absorbed the applicant to the post of Senior Ayurvedic Medical Officer immediately as he has tender his to the similar post more than 5 years and he also served the Government voluntarily more than 17 years;*
- c) To quashed and set aside the impugned list of the selecting candidates (UR) for the post of Senior Ayurvedic Medical Officer dated 13.09.2019 immediately;*
- d) To condone the delay, if any, to file this application, is unintentional and beyond control of the applicant as the same has been caused due to the prevailing pandemic COVID-19 situation;*
- e) To pass an order of cast;*
- f) To pass such other order and/or orders, direction and/or directions as may seem fit and proper;”*

4. The Original Application has been rejected by the West Bengal Administrative Tribunal by an order dated 10.03.2021, the subject matter of the present writ proceeding.
5. The learned advocate for the applicant/writ petitioner submits that having regard to the provisions contained in the Administrative Tribunals Act and Rules, the conclusion of the Tribunal regarding the Original Application being hit by limitation specified in Section 21 of the Administrative Tribunals Act is unsustainable. He submits that the mater be remanded for consideration afresh.

6. He further submits that the date of the final result, i.e 13.09.2019 allowed the petitioner one year time for filing an Original Application under the Act. In view of the intervening Covid-19 pandemic, the consideration by the Tribunal insisting upon one year period is unsustainable, in view of relaxation granted by the Apex Court to all applicable limitations, in the said period.
7. He further submits that even if such relaxation is not granted since earlier he had filed an Original Application and withdrew the same with liberty to file afresh, filing of the fresh Original Application cannot be said to be barred by limitation.
8. The learned advocate for the respondents on the other hand submits that the petitioner's application was rightly rejected by the Tribunal on the ground of limitation. He further submits that no case was made out by the writ petitioner in the Original Application filed since admittedly he was not qualified for participating in the recruitment process as per the terms of advertisement. The result, therefore, could not be challenged by the petitioner who was not a candidate and when he had not put to question, the terms and conditions in the advertisement regarding maximum age criteria neither prior to filing of the present application, nor in the present application.
9. We have considered the rival submissions. We have gone through the records. Even if we were of the view that having regard to the orders passed by the Apex Court, in

view of the Covid-19 pandemic, the petitioner be given an opportunity to argue the matter afresh before the Tribunal, the same would be an exercise in futility. It is the specific averment of the writ petitioner in his application that he had crossed the upper age criteria specified in the advertisement for the recruitment in question. It is not his case that he ever sought any relaxation or that he challenged the terms and conditions of the advertisement including the upper age criteria.

10. In the circumstances a challenge to the result without assailing such conditions in the advertisement and when the petitioner was not even eligible for the post certainly is not to avail any individual relief for himself. Even if this Court were to remand the matter to the Tribunal allowing the petitioner to argue his matter afresh, the substance of the relief claimed in the application was only quashing of the result on account of certain illegalities or irregularities. The law is by now well settled that a Public Interest Litigation does not lie in respect of a service matter. In this connection we refer to decision of the Apex Court in the case of ***Ayaaubkhan Noorkhan Pathan –Vs.- State of Maharashtra*** reported in **(2013) 4 SCC 465**. Quashing of the result would not entitle the petitioner to any individual relief whatsoever. Such relief has been claimed in the application knowing well that the recruitment process is over and appointments have been made.

11. We, therefore, find no reason to interfere with the order dated 10.03.2021 passed by the Tribunal in O.A. No. 415 of 2020.
12. The writ petition is dismissed.
13. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)