

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Prasenjit Biswas

W.P.S.T. 154 of 2025

Soumya Kanti Biswas

Versus

State of West Bengal and others.

For the Petitioner : Mr. Partha Pratim Roy,
Mr. Santanu Das,
Mr. Sagnik Bhattacharya

For the State : Mr. Sirsanya Bandopadhyay,
Mr. Debopriyo Karan

Judgment on : March 20, 2026

Madhuresh Prasad, J.:

1. The writ petitioner was the applicant before the West Bengal State Administrative Tribunal (hereinafter in short referred to as the Tribunal). His Original Application (OA) bearing number 423 of 2024, was rejected by the Tribunal by its order dated 15.05.2025, which is the subject matter of the present Writ Petition.
2. The factual background to filing of the OA is that the applicant was diagnosed with Mild Cerebral Palsy with Right Sided Hemiparesis when he was four years of age. The diagnosis continued consistently throughout the petitioner's life thereafter.

3. The first certificate of disability was issued on 22.10.1998, certifying petitioner's disability to the extent of 55 per cent. The next certificate containing consistent certification of the same disability and to the same extent is dated 20.11.2004. Both certificates are issued by the District Hospital, Howrah. The second certificate dated 20.11.2004 was issued by a board of four doctors when the petitioner was ten years of age.
4. After the petitioner crossed 20 years of age, the third certificate also certified the petitioner's disability and its extent (55 per cent). The same was issued on 06.09.2014, and is bearing certificate serial No. DHH/1058/14, issued as per instructions issued by the Government of India, in the Ministry of Welfare, in this regard vide Memo No. 4-2/83 III dt. 06.08.1986 by a Board consisting of Chairman and three members.
5. The writ petitioner completed a Diploma Course in Ayurvedic Pharmacy and registered himself as Ayurvedic Pharmacist in Paschim Banga Ayurved Parishad (hereinafter in short referred to as PBAP). Being possessed with such qualification the petitioner applied in response to an advertisement issued by the West Bengal Health Recruitment Board (hereinafter in short referred to as the Recruitment Board) vide notification dated 15.03.2023 (Memo No. 432/HFW-53024/14/2023-HRB), inviting applications for recruitment of Ayurvedic Pharmacists in the Department of Health and Family welfare, AYUSH Branch.

6. The petitioner participated in the recruitment process and his name figured in the overall performance list of eligible candidates as a selected candidate, against the sole (PWD) vacancy against general (Unreserved vacancy). The panel of selected candidates dated 16.10.2023 was valid for a period of one year.
7. Immediately after preparation of the Panel, a schedule for verification of documents was notified on 28.11.2023 wherein the petitioner's name figured at Serial No. 31. The recommended candidates including the petitioner were thereafter by a Notification dated 02.02.2024, issued by the Special Secretary, (AYUSH) Health & Family welfare Department to the Government of West Bengal, asked to participate in the counselling procedure.
8. Upon completion of the entire exercise the petitioner was required to undergo medical examination pursuant to which "*medical certificate of fitness*" was to be issued in terms of the provisions contained in the West Bengal Service Rules (WBSR in short) Part 1. Such scrutiny of medical fitness is contemplated at the threshold of an appointment to ascertain whether the person is fit to perform the duties.
9. It is at this juncture that writ petitioner's candidature was cancelled by an order dated 04.03.2024, issued under the signature of the Special Secretary (AYUSH) Health and Family Welfare Department. The order states that the cancellation is on account of lower percentage of disability as per the examination conducted by the competent authority. This order was challenged by the writ petitioner before the Tribunal.

10. Under such circumstances the writ petitioner filed OA No. 423 of 2024 wherein he sought issuance of a direction upon the authorities to review the order dated 04.03.2024 which cancelled his candidature for the post of Ayurvedic Pharmacist on the ground of low percentage of disability. We find such assessment to be based on a report dated 15.01.2024 issued by the Medical Board at the Kolkata Medical College and Hospital which was examining the petitioner for medical fitness at threshold of an appointment as contemplated in WBSR Part-I.
11. There is no dispute that for availing the benefit of reservation as a person with disability, the candidate is required to have disability certified to the extent of 40 per cent and above under the West Bengal Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1999 (hereinafter referred to as “1999 Rules”). There is also no dispute that petitioner’s certification in this regard, is in accordance with the Acts, Rules, Regulations framed thereunder, including executive instructions issued thereunder and was acceptable proof of the nature of disability and its extent for availing benefits under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and 1999 Rules.
12. The authenticity of the certificate also is not in doubt by any authority. The certificate was not invalidated or cancelled by resort to any procedure in accordance with law. The same therefore, continues

to be valid under the provisions of the Rights of Persons with Disabilities Act, 2016 and Rules framed thereunder.

13. Therefore, the issue, which fell for consideration before the Tribunal was whether such a certificate as regards the nature and extent of disability issued under the extant provisions and in accordance with the Ministry of Welfare, Government of India O.M. dated 06.08.1986 could be ignored by an employer for the purposes of extending benefit to a person with disability.

14. We find that the Tribunal glossed over this aspect.

15. Such being the facts and circumstances, and the certificate dated 06.09.2014 having a statutory sanctity, we are of the view that there was no occasion for the authorities to rely upon a general medical examination dated 15.01.2024, normally done prior to issuance of an appointment letter in the matter of public employment under the State Government. In this connection, we consider it apposite to refer to and rely upon a recent judgment of the Co-ordinate Bench in the case of ***Debika Karmakar vs. State of West Bengal and Others*** reported in ***2025 (4) CHN (CAL) 517***.

16. This court in the case of ***Debika Karmakar*** (Supra) has considered earlier judgments in the case of ***Swastika Mandal vs. State of West Bengal and Others*** passed in ***MAT 1884 of 2011*** and ***Tanmay Mandal Vs. The West Bengal Central School Service Commission and Others*** passed in ***W.P. No. 21584 (W) of 2010*** held that the certificate of disability issued in accordance with the extant provisions/ procedure for certifying nature and extent of disability, by

a competent authority was required to be considered as valid across the country as per the provisions contained in Section 58 of the Rights of Persons with Disabilities Act, 2016. The nature and extent of petitioner's disability certified under the certificate dated 06.09.2014, therefore, was required to be accepted as a valid certification for availing the facilities, concessions and benefits admissible to a person with disability under any scheme of the Government. The Court took into consideration the provisions contained in the Rights of Persons with Disabilities Rules, 2017 (hereinafter in short 2017 Rules), namely Rule 19 which reads:

“19. Certificate issued under Rule 18 to be generally valid for all purposes.- a person to whom the certificate issued under Rule 18 shall be entitled to apply for facilities, concessions and benefits admissible for persons with disabilities under schemes of the Government and of non-Governmental organizations funded by the Government.”

17. Plain reading of Rule 19 reveals that the petitioner is entitled to apply for facilities, concessions and benefits admissible to a person with disability under the scheme of the Government, which in the present case is the benefit of reservation in the matter of public employment. Thus it is obvious that the statutory Rule lends sanctity to the Certificate dated 06.09.2014 in so far as the petitioner's disability, and its extent are concerned. The Certificate continues to be valid for the period specified in the Certificate as per Rule 20 of the 2017 Rules, which reads as under:

“ 20. Validity of certificate of disability issued under the repealed Act.- the Certificate of disability issued under the Persons with Disabilities (Equal Opportunities, Protection of

Rights and Full Participation) Act, 1995 (1 of 1996) shall continue to be valid after commencement of the Act for the period specified therein.”

Thus there is no scope to deprive the petitioner, benefits of the Certificate of Disability dated 06.09.2014.

18. In the instant case the Certificate dated 06.09.2014 clearly records that the petitioner has 55 per cent permanent disability. The certificate also took into consideration the old certificate dated 20.11.2004. The petitioner's Certificate of Disability, therefore, continues to be valid in terms of the statutory Rules. During currency of its validity and relying thereupon the petitioner participated in the recruitment process. The authorities therefore, have no discretion or scope to ignore or overlook the Certificate of Disability dated 06.09.2014.

19. We are, therefore, of the opinion that the assessment done by a General Medical Board on 15.01.2024 and Certificate dated 20.01.2023, issued by the General Medical Board cannot be allowed to prevail over the Certificate of Disability having statutory sanctity under Rule 18 (1) of the 2017 Rules. The assessment dated 15.01.2024, does not have any statutory recognition or sanctity, in so far as disability, or the degree of disability is concerned. The assessment dated 15.01.2024 is not for the purpose of assessing disability and cannot take away the rights accrued in favour of the petitioner by virtue of the Certificate of Disability dated 06.09.2014, issued in accordance with law.

20. The certificate of fitness was required to be issued for the purpose of public employment under the State Government, as per Rule 10 of the West Bengal Service Rules, Part 1, which contemplates as follows:

“10. Subject to the provisions of Rule 11 and of any special rules regulating his recruitment, no person shall be appointed to a post in Government service without a medical certificate of fitness.”

21. For satisfying the requirement of Rule 10 a candidate selected for appointment in the State Government is required to obtain a medical certificate fitness issued by the Certification Authority specified in Rule 14 of the WBSR Part-I, on a form prescribed in Rule 13 of this rule. Rule 13 reads:

“13. Except as otherwise provided by rule, the medical certificate of fitness referred to in this chapter shall be in the following form:

"I hereby certify that I have examined A. B., a candidate for employment in theDepartment, and cannot discover that.....has any disease, (communicable or otherwise) constitutional weakness or bodily infirmity, except..... I do not consider this a disqualification for employment in the office ofA.B.'s age is according to his own statementyears, and by appearance about.....years."

22. Medical certificate of fitness does not contain any column for reviewing or certifying a degree of disability for a person with disability, duly certified under the beneficial statute dealing with Rights of Persons with Disabilities. The assessment and certificate dated 06.09.2014 is under the protective legislation being the Rights of Persons with Disabilities Act enacted for this special purpose and the Rules framed thereunder. We have already considered above that once certification is done in terms of the Act it has a statutory sanctity. We

are of the considered opinion that statutory certification cannot be interfered with by a medical board/body Constituted under Rule 14 of WBSR Part-I for a different purpose, being the issuance of a medical certificate of fitness, requisite under Rule 10 there in, on the form specified under Rule 13 of the WBSR Part I, for employment under the State Government.

23. Such medical examination conducted on 15.01.2024 is a general examination conducted by the authorities to assess the level of fitness of a person. Based on such medical examination which have a limited purpose under the WBSR to issue a certificate, as extracted above, we find no scope in issuance of an order dated 04.03.2024 by the Special Secretary, (AYUSH) Health & Family welfare Department to the Government of West Bengal declaring the petitioner's candidature as *"unfit on account of below bench mark disability"*

24. The object and purpose of the medical examination dated 15.01.2024 was for a totally different purpose. The Certificate of Disability dated 06.09.2014, on the other hand, has a statutory sanctity, is based on an examination by a specialist, and therefore, the same must prevail.

25. The petitioner cannot be denied the benefit of the certificate dated 06.09.2014 and the denial by the authority to issue an appointment letter based on the order dated 04.03.2024 purportedly based on a medical examination dated 15.01.2024, under the above noted provisions of the WBSR Part-I is unsustainable –the order dated 04.03.2024, inasmuch as it deprives the petitioner's benefit of the statutory certificate of Disability dated 06.09.2014 is unsustainable.

The order of the Special Secretary, (AYUSH) Health & Family welfare Department to the Government of West Bengal dated 04.03.2024 is hereby quashed.

26. We, therefore, direct that the authorities should proceed to offer the appointment letter to the petitioner without raising any objection as regards the Certificate of Disability dated 06.09.2014. The order of the Tribunal dated 15.05.2025 passed in O.A. No. 423 of 2024, in our opinion, and in view of the above conclusion, is unsustainable.
27. The order is set aside. The present writ petition is allowed in the above terms. The O.A. No. 423 of 2024, also stands accordingly allowed.
28. It is directed that the authorities will proceed in compliance with this order expeditiously and process the petitioner's claim after assessment and verification of other relevant parameters contemplated in the recruitment process, if any; positively within eight weeks from the date of receipt or production of a copy of this order.
29. Urgent Photostat certificate copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)