

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. OA – 551 of 2024

Md. Sirajul Islam - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>6</u> 21.03.2025	For the Applicant	: None.
	For the Respondents	: Mrs. S. Bandyopadhyay, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has prayed for setting aside the impugned order No.3184 dated 17.05.2024. By this order, the Deputy Director of Health Services (Admin.) informed the applicant that his prayer for study leave has been regretted. Earlier the applicant on 11.03.2024 has furnished an application for sanction of study leave for M.S.(General Surgery) before the Director of Health Services in proper format which was received by the respondent and acknowledged.

After perusal of the impugned rejection order for study leave, it is understood that the only reason for regret given by the respondent authority is that it has already allowed 489 Medical Officers of different cadres to pursue different Post Graduate courses. Accordingly, release of more Medical Officers including this applicant to undergo study leave “will hamper the rendering of patient care service as well as public interest.”

Mrs. S. Bandyopadhyay, learned counsel supporting the decision of the respondent authority had submitted that the applicant is presently posted as a M.O. (CCU) at MJN Medical College & Hospital, Coochbehar. Mrs.Bandyopadhyay, also submits that the total sanctioned post of Medical Officers (CCU) is only 8, but presently only 4 are in position. She has also submitted that as stated in the impugned Memo, the Department has already allowed 489 Medical Officers to pursue different post graduate courses. Therefore, further release of any Medical Officer will hamper the interest of medical sector in the State. Finally, Mrs.Bandyopadhyay also emphasised the point that leave, even study leave, is not a right of a government employee and granting of such leave is the sole discretion of the respondent authorities.

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Ms. D. Ghosh, learned counsel submitted that study leave is governed by the West Bengal Service Rules, Part-1. Appendix No. 5, Rule-1. Under the Study Leave chapter certain conditions are to be fulfilled to be eligible for an employee to be allowed to proceed on study leave. Submission is that the applicant has fulfilled all these conditions and was eligible to be allowed to undergo study leave.

The Tribunal observes that the primary reason for rejection that it has already allowed 489 officers, and therefore, cannot afford to release more officers is very flawed and inadequate ground for such rejection. If a large number of officers have already been released what stops the respondent authority to release this applicant. The only explanation that further release of officers will create shortage of manpower in the Department is not a valid and justifiable ground. It would not be an over statement to point out that the respondent authority by refusing to release this applicant was biased towards him. Further, the Tribunal cannot also accept the reason of shortage of officers on the ground that it has already allowed 489 officers to pursue different post graduate courses.

Nevertheless, the Tribunal has also observed that the applicant's request for study leave to undergo the course in M.S. (General Surgery) for the sessions 2022 – 2025 must be nearing an end. It would not serve any purpose if the applicant joins this course at this point of time.

Having observed both the versions of this matter, the Tribunal gives liberty to the applicant to apply for the next session of his choice of study and apply afresh for either Trainee Reserve or study leave. Once successful and after being admitted, the respondent authority shall consider the new application favourably, if he fulfills all other eligible criterias.

With the above direction, this application is disposed of.

A.K.P.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)