

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 – 787 of 2022

Dr. Suprabhat Das - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. S. Ghosh, Advocate
<u>6</u> 19-01-2023	For the Respondents	: Mr. G. P. Banerjee, 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.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

In pursuance to the Tribunal's order, Mr. Banerjee submits a statement of fact relating to this matter. It appears from this statement, signed by the Deputy Director of Health Services on 11.01.2023 that a departmental proceeding relating to an immovable property acquired by the applicant without prior approval is being conducted. Although, in this same statement at para 3 confirms that Dr. S. Das is eligible for Trainee Reserve. However, due to the initiation of a departmental proceeding against him, the approval for giving Trainee Reserve is "kept in abeyance". In Rule 9 of the Trainee Reserve Rule, 2015, approval of T.R. is the sole discretion of the Government.

Mr. Ghosh submits that simple initiation of a departmental

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proceeding is not a punishment till the charges are established and subsequently punishment given. In this case, the applicant has not been issued any charge sheet. Relying on relevant Supreme Court Judgements (Union of India –Vs- K.V. Jankiraman). Mr. Ghosh prays for a direction to the respondent to clear his T.R. application. It is also mentioned that last date for joining the classes is end of this month.

Mr. Banerjee supporting the statement made in the respondents' reply reiterates that the approval for Trainee Reserve is subject to the discretion of the authorities as per Rule 9 of the T.R. Rules, 2015. In this case, the T.R. approval has been kept in abeyance due to the fact that a departmental proceeding is being initiated against the applicant. The applicant's application for T.R. will be approved only when the vigilance clearance is received.

From the records and submissions, it is clear that the Respondent exercising the discretionary powers under the Rule 9 and on the basis of departmental proceeding being initiated, his application for T.R. has been kept undecided till the Vigilance angle is cleared. It is noted that the statements at para 4 and para 6 of the statement of facts are contradictory and does not make it clear whether such D.P. has been initiated or will be initiated. An application for Trainee Reserve to pursue higher studies in the medical field cannot be restricted and kept undecided indefinitely on the basis of vigilance clearance. I agree with the learned counsel for the applicant that simple initiation of departmental proceeding is not equivalent or tantamount to a departmental punishment. In this case, it

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appears that a parcel of land of more or less than five cottah was purchased by the applicant without prior approval of the respondent authorities, although it is submitted that an intimation was made to the employer.

Summing up the submissions, I am of the view that the State as the Employer should encourage research and facilitate advance studies to its employees, especially in such specialised fields like medicine. It will not serve any purpose of the State if aspiring employees are prohibited to pursue higher studies.

As understood in the case, the applicant's approval for T.R. is kept suspended due to non disposal of his vigilance clearance relating to a purchase of a parcel of land for construction of his dwelling. The question is how long it will take to process this file? On the other hand, there is a deadline for the applicant to join the classes.

Hence, the Respondent No. 2, Director of Health Services is directed to expedite processing his vigilance file (Departmental vigilance), preferably within a fortnight from the date of communication of this order and pass a reasoned order on his application for T.R. within one week thereafter.

A.K.P

Accordingly, the matter is disposed of.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)