

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 324 of 2025

Dr. Swapan Majhi -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant

: Mr. M.N. Roy,
Mrs. P. Sasmal,
Ld. Advocates.

For the State Respondents

: Mr. G.P. Banerjee,
Mrs. S. Agarwal,
Ld. Advocates.

04
11.08.2025

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

Affidavit of service filed be kept on record.

The applicant has prayed for setting aside the impugned order dated 02.05.2025 issued by the respondent authority rejecting the applicant's request for grant of study leave to pursue the MD course in "Respiratory/Pulmonary Medicine" at N.R.S. Medical College & Hospital for the session 2024-2025.

Submission of Mr. Roy is that although the impugned order cites release of 333 officers to pursue different Post Graduate Courses, but on 15.05.2025 by several orders many more officers were allowed to proceed on study leave to pursue different courses. Attention has been drawn to the impugned memo No. A 2106 dated 02.05.2025 which has cited the ground of rejection as under :

"I am directed to inform you that your afore-mentioned prayer for allowing STUDY LEAVE has been considered and subsequently rejected by the competent authority on the ground that for the year 2024-2025, this Department has already decided to allow 333 officers of WBHS / WBPH&AS / WBMES cadre to pursue different post graduate courses to allow further officer from afore-said cadre to pursue post graduate course on availing STUDY LEAVE will create shortage of such officers in this Department which in return will hamper the rendering of patient care service as well as public interest."

The Tribunal finds that despite rejection of the applicant's prayer, the respondent authorities continued with releasing of more officers to pursue different courses of their choice under study leave.

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In fact, an order no. 43015 dated 15.05.2025 shows that one Dr. Krishnendu Bhowmick, posted as a Block Medical Officer of Health at Anantapur Rural Hospital, Tamluk Block, Purba Medinipur was allowed the study leave to pursue the same course of MD Respiratory Medicine. The applicant had also prayed for allowing him to proceed on study leave to pursue the MD course in the same stream, "Respiratory/Pulmonary Medicine", which was regretted by the respondent authorities citing "shortage of doctors".

The Tribunal is of the clear opinion that such decision was not only discriminatory but violation of natural justice. Decisions to release and not to release cannot be whimsical and arbitrary. In this case, the respondent authorities have clearly demonstrated their favour for one particular doctor and prejudice against the applicant. Thus, the Tribunal finds the impugned order passed by the respondent authorities in memo. no. 2106 dated 02.05.2025 bad in law, untenable and quashable. Therefore, this order is quashed and set aside with the direction to the respondent no. 3, the Director of Health Services, Directorate of Health & Family Welfare to accept the application of the applicant to pursue the course of MD Respiratory Medicine under study leave within a period of seven days from the date of communication of this order.

In view of above, this application is **disposed of**.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

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