

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 337 of 2023

Dr. Debesh Nath -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. G.P. Banerjee, Ld. Advocate.

For the State respondent : Mr. S. Ghosh, Ld. Advocate.

04
12.07.2023

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.

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

The applicant as the Block Medical Officer of Health, Madhabnagar Rural Hospital, Diamond Harbour Health District had applied for the facility of Trainee Reserve before the Director of Health Services on 06.12.2022 to undertake the course in MS, Obst & Gynae for the session 2022-2025 at Malda Medical College and Hospital. After completion of the admission formalities, the applicant paid the course fee. Since the respondents were not considering his application for Trainee Reserve, the applicant had filed an application before this Tribunal. By an order dated 23.03.2023, a direction was given to the Director of Health Services to consider his representation in the light of the Judgement of the Hon'ble Supreme Court in the case of Union of India v. K.V. Jankiraman and pass a reasoned order. Accordingly, a reasoned order was passed on 19.04.2023 by the Director of Health Services, the relevant portion of the reasoned order is as under :

“Now, therefore, after careful consideration of the entire facts and circumstances of the case and on verification of records, as a Departmental Proceeding is ongoing against Dr. Nath, the benefit of TR is withheld for the time being till disposal of the case and the clearance to be given by the Vigilance Branch of this department. Under such circumstances, it is regretted that the prayer made by the petitioner cannot be considered at this stage. However, steps are being taken to expedite processing his vigilance

Form No.

Case No. **OA 337 of 2023.**

Vs.

The State of West Bengal & Ors.

file.”

On being asked about the status of such departmental proceeding, Mr. Ghosh informs the Tribunal that the matter relating to departmental proceeding is being processed along with his application for Trainee Reserve. Mr. Ghosh also submits that it is the sole prerogative of the respondent authority as per the Trainee Reserve Notification whether such a Trainee Reserve facility can be accorded or not. Decisions will be taken in this regard based on administrative reasons.

Responding on behalf of the applicant, Mr. Banerjee submits that no such departmental proceeding has been initiated till date against the applicant since neither any charge sheet nor any show cause or notice have been issued to the applicant by the respondent. Therefore, withholding the application for Trainee Reserve by stating that a departmental proceeding is “ongoing” is unfair and arbitrary. Submission is that the respondent authority cannot ignore and procrastinate the applicant’s prayer for Trainee Reserve on the plea that a departmental proceeding is “ongoing”. The application for Trainee Reserve was made more than six months ago. In the meantime, the classes for the desired course have already commenced and the applicant is unable to join the classes despite being admitted.

After hearing and submissions of the learned counsels and perusing the records in the application, the Tribunal is of the view that the issue relating to the “ongoing” departmental proceeding against the applicant looks obscure and vague. As it appears from the submission of Mr. Banerjee, as of today, the applicant, if he is the charged officer in the departmental proceeding, no such charge sheet or show cause have been received by him.

On the other hand, by the admission of the Director of Health Services, it appears that this application for Trainee Reserve have been kept on hold due to the “ongoing” departmental proceeding. At this juncture,

ORDER SHEET

Dr. Debesh Nath

Form No.

Case No. **OA 337 of 2023.**

Vs.

The State of West Bengal & Ors.

the Tribunal would like to know specifically know whether any such departmental proceeding has been commenced at all or not. If no such departmental proceeding has been commenced on this date, then the respondent no. 2, the Director of Health Services is directed to consider the application for Trainee Reserve, subject to his fulfilling all other criterias under the Trainee Reserve Notification within a period of three months from the date of communication of this order.

Accordingly, the application is **disposed of**.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

HS/SS