

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,
Case No. – OA 412 OF 2023**

MD SIRAJUL ISLAM - Vs - THE STATE OF WEST BENGAL & OTHERS

Serial No. and
Date of order

03
17.01.2024

For the Applicant : Mr. Manujendra Narayan Roy
Advocate

For the State Respondents : Mr. Ranjit Kumar Mondal
Advocate

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 has prayed for setting aside the impugned order dated 24.03.2023 passed by the respondent no. 2(iii), Director of Health Services. The prayer for Trainee Reserve was considered by the respondent in terms of this Tribunal's direction in OA 31 of 2023. After consideration of the matter, the respondent authority regretted the same by passing a Reasoned Order dated 24.03.2023 citing the reason that the applicant had not completed his assignment in rural districts.

The reasoned order refers to the Notification No. 136 dated 21.01.2016 relating to the Trainee Reserve which is an amendment of the placement on Trainee Reserve Rules 2015. In para 4 of this amended Notification, it appears that the compulsory requirement of qualifying rule of service may be relaxed or dispensed with for cases where Medical Officers have been recruited directly through P.S.C. and WBHRB and appointed in specialised units. In the case of this applicant, the reasoned order states that he was not recruited directly and posted in

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any of these specialised units. After regretting the application for Trainee Reserve, the reasoned order offers him to apply rather for study leave to pursue this Post Graduate course by filing a fresh application, if so wished.

From the records and submissions, it is understood that the applicant has already joined the M.S. (General Surgery Course) for the session 2022-2023 without having the approval of the competent authority for Trainee Reserve. It is also understood that he has not applied for the study leave as indicated by the reasoned order.

The reasoned order passed is incorrect in stating that the applicant was not directly recruited. It is clear from Memo. No. 1450 dated 07.01.2015 supported by the Annexure that the applicant Md. Sirajul Islam was appointed by the respondent department on the recommendation of West Bengal Health Recruitment Board. Therefore, rejecting the application for Trainee Reserve on this ground of not having been appointed directly is factually incorrect. However, despite this incorrect statement, it appears that the applicant had served only one year four months in the rural area. Mr.M.N.Roy, contends that the applicant had served in CCU, MJN Hospital, Cooch Behar for more than three years be counted as a rural hospital. Such contention does not hold any ground, because the reasoned order also defines rural area which includes only Primary Health Centres, BPHC, Rural Hospitals. The term "rural area" does not include service in hospitals under Municipalities, Municipal Corporations, Cantonment Boards and Townships. The Tribunal also observes that as per the Notification, granting Trainee Reserve is the sole discretion of the authority and such discretions are exercised on merit of each case. Despite rejection of his prayer the applicant proceeded to pursue his M.S. in Surgery. The Tribunal finds

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that the reasoned order passed was as per law and has merit and thus, the application is disposed of without passing any order.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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