

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 628 of 2022.

RITA BISWAS- VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

09
18.01.2024

For the Applicant : Mr. G.P. Banerjee,
Learned Advocate.
For the State Respondents : Mr. D. Koley,
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 (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 counsel for the contesting parties, the case is taken up for consideration sitting singly.

The applicant Rita Biswas, a Grade II Nursing personnel was allowed to proceed on Trainee Reserve facility to pursue her M.Sc (Nursing) course. While studying the course, she was promoted to the post of Gr. (II) Sister/ Sr. PHN/ Sister Tutor by order dated 21.8.2022. By two follow up orders, she was also released from her present post at Tehatta SDH, Tehatta, Nadia to allow her to join the promotional post of Senior PHN at Nazirpur BPHC. On 31.8.2022, the Director of Health Services issued an order to the effect that this Gr. (II) Nursing personnel presently on Trainee Reserve will be allowed to join their respective promotional posts only after completion of their trainee reserve period. The order also made it clear that their promotional benefit will come into effect from the date of their joining in the promotional posts. As a follow up to this order of the Director of Health Services dated 31.8.2022, the CMOH, Nadia passed an order on 01.9.2022 cancelling the release order issued earlier. It also appears from one of her representation that though she went to join the new promotional post at Nazirpur BPHC , but the same was not accepted.

Submission of Mr. Banerjee on behalf of the applicant is that there is no law depriving the promotion while studying a course under Trainee Reserve.

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Further, two similarly circumstanced candidates undergoing the M.Sc course and promoted like the applicant were allowed to join their new place of posting on promotion. The names of these two candidates are Chandrima Paria and Amrita Bhattacharyya. They were allowed to join the new place of posting on promotion by the order of the DHS being 1072 dated 20.7.2023.

Responding to the first submission of Mr. Bsnerjee that law does not prohibit an employee to simultaneously pursue her studies under Trainee Reserve and as well be promoted. Mr. Koley refers to the same order dated 30.8.2022 of the DHS and holds that such promotional post can be joined only after completion of her studies.

As regards the second submission that similarly circumstanced persons were allowed to join the new place of posting, Mr. Koley refers to the order dated 20.7.2023 and submits that these two nurses were allowed to discontinue their studies and join the new place of posting on promotion. In this case, the applicant, Rita Biswas continued to pursue her studies without declining the promotion. Therefore, she was not eligible to join the new post on promotion. A Government employee cannot continue to be on study under TR Facilities and also join a new place of posting on promotion simultaneously.

Both the learned counsels pray for an adjournment of this matter today with liberty to file relevant service rules and judgements relating to promotion on the next day.

Let the matter be listed on 30th July, 2024 under the heading "For Orders".

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Skg.