

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**The Hon'ble SAYEED AHMED BABA, Member (A)**

**Case No. – OA-680 of 2022**

Serial No. and Date of order	Dr. Ratan Sasmal For the Applicant	<b>VERSUS</b> – The State of West Bengal & Ors..	Mr. M. Dasgupta, Mrs. C. Mukherjee, Mr. M.N. Roy, Learned Advocates.
<u>01</u> 03.11.2022	For the State Respondents	:	Mr. G.P. Banerjee, Learned Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26<sup>th</sup> August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

Affidavit of service has been filed be kept with the record.

In this application the prayer is for a direction to Respondent 3, Director of Medical Education, Deptt. of Health & Family Welfare to extend the benefits of "Trainee Reserve" facility to undertake the course of M.D. (Anesthesiology) for the Session 2021-2024. As submitted by the learned advocate for the applicant, the applicant after getting due clearance had applied for the course of M.D. ( Anesthesiology) and was successful in the NEET PG Course and was given the option for pursuing M.D. (Anesthesiology). Accordingly, as required, as submitted by the learned advocate, the cumulative fee of Rupees. 27,75,000/- has been paid. It is also submitted that to fulfil the criteria of the Trainee Reserve benefit, the applicant had completed all the

required eligibility criteria under the West Bengal Medical Education Services, West Bengal Health Services and the West Bengal Public Health-cum-Administration Services (Placement on Trainee Reserve) Rules, 2015. Since admission formalities were completed and classes had begun, however, due to non receipt of the Trainee Reserve, the applicant was not able to attend classes. As per the latest Notification appearing at page 139 dated 31.08.2022; the submission of synopsis research proposal has been extended to 30<sup>th</sup> November, 2022 without late fees.

Despite submission of representations to the respondents ventilating his grievance and request for issue of the order for the Trainee Reserve, the respondent has not yet issued such order. The learned advocate also submits that in compliance with the order of the Tribunal dated 21.07.2022, the respondent has cited lack of vigilance clearance as the reason and has “Kept in abeyance” order of TR till the applicant gets vigilance clearance.

Submission of the learned advocate is for a direction to the respondent to issue the Trainee reserve without further delay so that the applicant can attend the classes and submit his research proposal before the deadline of 30<sup>th</sup> November, 2022.

Mr. Banerjee appearing on behalf of the respondent submits that para 9 of the Notification for Trainee Reserve Rules, makes it abundantly clear the issue of trainee reserve in favour of any government employee is the sole discretion of the government.

Moreover, it is also submitted that trainee reserve could

not be or ought not to be in favour of the government employee against whom serious allegations in the form of vigilance enquiry are pending and are not yet disposed of.

Further, the decision to the payment of fees to the tune of Rs. 27,75,000/- was the sole decision of the applicant himself, the government had not expressed any direction to the applicant to pay the fees. In fact, any applicant, as a govt. employee should not pay such a big amount of fees without obtaining trainee reserve and NOC clearances. In this case as submitted by Mr. Banerjee, the applicant on his volition went ahead and paid the fees.

Mr. Banerjee further points to paragraph 7 of Trainee Reserve Notification which makes it clear that no officers shall undergo studies as trainee reserve without being sponsored by the State Government.

In view of the above, Mr. Banerjee submits that the issue of trainee reserve to the applicant to undergo this course has been kept in abeyance subject to vigilance clearance.

From the perusal of the record and submission from the learned advocates, it also appears that the applicant has filed a WPST No. 83 of 2022 before the Hon'ble High Court challenging the impugned order of the Tribunal dated 21.07.2022. The said writ petition is pending with the Hon'ble High Court. The learned advocate for the applicant submits that the applicant has been advised to withdraw the said writ petition after reopening of the Hon'ble High Court.

In view of the fact that a writ petition is pending at

Hon'ble High Court this Tribunal cannot hear and adjudicate any further.

Let the matter appear under the heading "Admission Hearing' on **09.11.2022**.

SAYEED AHMED BABA  
MEMBER (A)

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