

**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 680 of 2022**

**Dr. Ratan Sasmal -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicant : Mr. Manujendra Narayan Roy,  
Learned Advocate

For the State Respondents : Mrs. Sunita Agarwal,  
Learned Advocate

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07.03.2025

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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

In this application the prayer is for a direction to the respondent 3, Director of Medical Education, Department of Health & Family Welfare to extend the benefits of “Trainee Reserve” facility to undertake the course of M.D. (Anaesthesiology) for the Session 2021-2024. As had been submitted by the learned advocate for the applicant, the applicant, after getting due clearance, had applied for the course of M.D. (Anaesthesiology) and was successful in the NEET PG Course and was given the option for pursuing M.D. (Anaesthesiology). Accordingly, as required, the cumulative fee of Rupees. 27,75,000/- had been paid. It had also been 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. Despite submission of representations to the respondents ventilating his grievance and request for issue the order for the Trainee Reserve, the respondent had not considered. The learned advocate also had submitted that in compliance with the order of the Tribunal dated 21.07.2022, the respondent had cited lack of vigilance clearance as the reason and “Kept in abeyance” order of TR till the applicant gets vigilance clearance.

Mr. Banerjee, learned counsel, appearing on behalf of the respondent authorities, had submitted that para 9 of the Notification for Trainee Reserve Rules, makes it abundantly clear the issue of trainee reserve in favour of any

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government employee is the sole discretion of the government. Moreover, it was also submitted that trainee reserve could not be or ought not to be in favour of the government employee against whom serious allegations are made and a vigilance enquiry is pending. Further, the payment of Rs. 27,75,000/- was the sole decision of the applicant himself and not of the government. In fact, any applicant, as a govt. employee should not pay such a big amount of fees without obtaining clearances. In this case, as submitted by Mr. Banerjee, the applicant on his own volition went ahead and paid the fees. Mr. Banerjee further pointed to paragraph 7 of Trainee Reserve Notification which made it clear that no officers should undergo studies as trainee reserve without being sponsored by the State Government.

Concluding his submissions, Mr. Banerjee states that the reason for non-consideration of Trainee Reserve is still due to lack of vigilance clearance. Moreover, the respondent authority has initiated a Departmental Enquiry against the applicant. It had also been submitted that the course applied by the applicant under Trainee Reserve being MD (Anaesthesiology) for the sessions 2021-24 is almost over, therefore, such TR facility becomes meaningless at this point of time.

Mr. M.N. Roy, learned counsel, had pointed out that the Notification No. 974-PAR (Vig.) dated 25.07.2000 does not require any vigilance clearance in respect of Officers against whom a decision had been taken to institute the disciplinary proceedings. Mr. Roy also argued that by issuing the show-cause notice, the Department's action cannot be considered as having taken disciplinary proceedings or a disciplinary proceeding initiated. The applicant had replied to the Show Cause requesting to supply some documents to him which had not been shared by the respondent authorities till date. Relying on the submission, Mr. Roy referred to a judgment of the Hon'ble Supreme Court in "*Union of India vs. K.V.Jankiraman etc.*", "*AIR 1991 SC 2010*". By that judgment, he argued that issuing the show-cause is not initiation of a disciplinary proceeding. As clear from the judgment, a disciplinary proceeding can be termed as initiated only if the Charged Memo has been

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served to the Charged Officer. The conditions laid down for granting Trainee Reserve does not cover any vigilance clearance. Read together the Notification No. 974-PAR (Vig.) dated 25.07.2000 and the Notification on Trainee Reserve published on June 03, 2015, vigilance clearance as a condition is not required for granting Trainee Reserve to any employee.

Mr. Banerjee responding to the submissions made by Mr. Roy draws attention to Rule 9 of Notification dated June 03, 2015 relating to Trainee Reserve. This Rule gives discretionary power to the authority for taking a decision on Trainee Reserve applied by the employees. Mr. Banerjee also draws attention to Circular No. 2684 dated 27.01.2022 in which appearing at paragraph 6 states that TR/NOC granted can become invalid if vigilance clearance has any adverse report.

The applicant had preferred an application praying for such Trainee Reserve which was not accepted by the respondent authorities primarily on the ground that his vigilance clearance was awaited. The applicant's side had contested that granting Trainee Reserve has no bearing with vigilance clearance and by such rejection, the respondent authorities have acted in arbitrary and whimsical manner. An indication has been made that the applicant, while posted as Superintendent of Katwa Sub-Divisional Hospital, was involved in an alleged defalcation of government fund.

Having heard the submissions of the learned counsels and after examination of the documents in this application, the Tribunal's observations are as follows:

(i) It is the discretion of the respondent authority as employer, whether undergoing specialisation courses like M.D. (Anaesthesiology) is required by its doctors or not. Only upon such decision that such a course will be beneficial to the public at large, the government may grant Trainee Reserve facility. In this case, exercising such a discretion under the Trainee Reserve Rules, the prayer of the applicant was not considered. It is also important to add that an employee against whom some serious charges have been levelled, a positive decision in favour of the applicant for such Trainee Reserve may not

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be possible. Needless to mention that the applicant had availed study leave and joined this course in 2021 and such course is coming to an end very soon. The award of Trainee Reserve facility for such a course started in 2021 will serve no purpose. The Tribunal is also concerned with some serious charges of financial misappropriation which has been levelled against the applicant and a departmental enquiry has been initiated.

In view of the above findings, the Tribunal is not satisfied that the prayers in this application has any merit and deserve any consideration. Therefore, finding no merit, this application is disposed of without passing any orders.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

SCN.