

**ORDER SHEET**

**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 94 OF 2023**

**SUPRIYO DAS – VERSUS- THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	:	Mr. K. Alam, Advocate
	For the State Respondents	:	Mr. G.P. Banerjee, Advocate
<u>5</u> 31.01.2024	For the Principal Accountant General (A&E), West Bengal	:	Mr. Biswanath Mitra, Departmental Representative

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.

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

On 31<sup>st</sup> January, 2023, the applicant had furnished a representation before the Director of Medical Education, primarily requesting refund of Rs.20,38,453/- and another amount of Rs. 5 lakh. It appears from this representation that he had joined the MD course in Gynaecology with TR facility, but left it mid-way on 26.07.2016 and during the period from 04.08.2017 to 08.05.2019, he remained absent from duties. Thereafter, on his own, he joined the College of Medicine & Sagore Dutta Hospital to pursue Pharmacology from 08.05.2019. However, the representation is silent regarding his status after completion of the MD course in Pharmacology. Rather his representation mainly requests the respondent authorities to refund him the above two amounts. Neither from the submission of the counsel nor from the representation, it is clear whether, after completion of the MD course in Pharmacology in 2022, the applicant submitted any joining letter before the respondent authorities and joined any post or not. It does not appear so. The normal course of action for an employee after completion of his course is to submit a letter before the employer informing completion of his course and asking for a posting. It appears that such action was not taken by the applicant after he completed his course. Therefore, it is fair to assume that the applicant did not join any post under the Health Administration. On the other hand, from his representation and prayers in this application, it appears that he is rather focussed on his request for refund of two amounts from the authorities, totally more than 25 lakhs. Though Mr. Alam states that the

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applicant had resumed his duties, but no document or proof is furnished to show that he has joined and presently holds a particular post as a Medical Officer in the Department.

Mr. G.P. Banerjee, learned counsel for the respondents submits that, the fact is the applicant, having availed the benefit of T.R. facility for joining the course of MD in Gynaecology, without approval of the competent authority, abandoned the course mid-way and on his own volition and without any permission from the competent authority, he joined another MD course, MD in Pharmacology. Further he has not joined or expressed his wish to join the Department.

Since the main prayer is for release and refund of an amount more than 25 lakhs, it is better if such decisions are left to the discretion of the respondent authorities for consideration.

With the above observation, this application is disposed of by directing the respondent No.3, the Director of Medical Education to examine his claim for such refund and take the final decision as per Rules within three months from the date of communication of this order.

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

SCN.