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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 06.08.2026

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CNR No. DLHC010986412024

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LPA 1252/2024 & CM APPL. 76495/2024**DR CHAYAN JAIN****.....Appellant**

Through: Mr. Sagar Saxena, Mr. Krishnandu
Halдар & Mr. Abu Hassan Usmani,
Advocates along with Appellant-in-
Person.

versus

DIRECTOR, MCD & ORS.**.....Respondents**

Through: Ms. Tajinder Viridi, Standing Counsel
for MCD (through VC).
Mr. Vijay Joshi, CGSC with Mr.
Shubham Chaturvedi, Advocate for
Respondent No.4.

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)**

1. This intra-Court appeal is directed against the judgment and order dated 21.11.2024 passed by the learned Single Judge whereby W.P.(C) 12452/2024 preferred by the appellant has been dismissed.
2. The underlying writ petition was directed against an order dated 16.08.2024 passed by the competent authority of the Municipal Corporation of Delhi (hereinafter referred to as the 'MCD') whereby prayer for grant of study leave and for relieving him to join PG (General Medicine) course in Army Hospital (Research & Referral) [hereinafter referred to as 'RR



Hospital’] was rejected. The order dated 16.08.2024, which was challenged in the writ petition, gave reason for cancellation of the prayer for grant of study leave that as per Central Civil Services (Leave) Rules, 1972 (hereinafter referred to as the ‘**Leave Rules**’), the maximum period for which study leave could be allowed is only 36 months for the entire service tenure, however, the appellant had already availed study leave for approximately 10 months and, therefore, study leave for further 36 months could not be granted.

3. The appellant had also prayed in the underlying writ petition that the MCD be directed to treat the DNB (General Medicine) resident period spent by him in Hindu Rao Hospital (hereinafter referred to as ‘**HRH**’) as regular duty/ Extraordinary Leave and further that a direction be also issued to grant the appellant permission to join PG (General Medicine) course in RR Hospital on study leave.

4. The facts in brief are that while in service of the MCD on the post of medical officer, the appellant had applied for sponsored DNB seat in 2022 session and, accordingly, got admission in Poona Hospital at Pune, however, he intended to pursue higher studies on the basis of NEET PG examination and, therefore, he chose not to proceed with the course at Poona Hospital at Pune and joined his duties with MCD in February, 2023.

5. The appellant applied against an advertisement issued by Director General of Armed Forces Medical Services (hereinafter referred to as ‘**DGAFMS**’), dated 26.07.2023. A merit list was published by DGAFMS for priority-III candidates, however, name of the appellant did not find place



in the said list which led the appellant to file W.P.(C) 10856/2023 assailing the merit list dated 10.08.2023. The said writ petition was dismissed on 11.09.2023 by a learned Single Judge of this Court, however, the appellant challenged the said order dated 11.09.2023 by instituting LPA 661/2023. During the pendency of the said LPA, certain DNB seats fell vacant in HRH in-service category and, therefore, after mop-up round of counselling, he sought permission on 11.10.2023 to be relieved from the MCD to join HRH to work as DNB trainee-cum medical officer.

6. In December, 2023, as per the appellant, he learnt and understood that as per the extant rules he will not be able to complete his sponsored DNB Course at HRH on account of a provision in the National Board of Examination (hereinafter referred to as the ‘NBE’) brochure and registration portal that if a medical officer drops the DNB course after joining on a seat reserved for in-service medical officers, he shall be prohibited from availing the benefit of reservation of DNB seat for the entire duration of the earlier course. It is the case set up by the appellant that since he had earlier withdrawn from DNB course from Poona Hospital and, therefore, in view of the aforesaid Rule, he would have been debarred from appearing in the final examination to complete DNB PG course at HRH, the appellant vide communication dated 26.12.2023 sought his relieving from HRH to pursue the DNB PG course at Poona Hospital, Pune.

7. In the meantime, the LPA No. 661/2023 was allowed by this Court on 31.05.2024 whereby the order dated 11.09.2023 passed by the learned Single Judge was set aside and a direction was issued to DGAFMS to grant the appellant admission to PG (General Medicine) course in RR Hospital for



the academic session 2024-25.

8. The appellant, thereafter, made a representation dated 06.08.2024 to the MCD for getting relieved to join PG (General Medicine) course at RR Hospital and also to grant him study leave. The said prayer, however, did not find favour with the authorities of the MCD and, accordingly, *vide* order dated 16.08.2024, the competent authority of the MCD rejected the prayer for grant of study leave and for relieving him to join PG (General Medicine) Course at RR Hospital.

9. It has been argued on behalf of the appellant that the permission to join PG (General Medicine) course at RR Hospital was wrongly denied to him and further that his request for grant of study leave was also unlawfully rejected by the MCD by passing the order dated 16.08.2024.

10. Opposing the appeal, it has been contended on behalf of the learned counsel representing the MCD that as per Leave Rules applicable to the appellant, in the entire service tenure he could be granted study leave for a period of 36 months only and since about 10 months' study leave was already availed by the appellant, his prayer was rightly rejected.

11. This Court, while entertaining the instant LPA, passed an order dated 24.12.2024 noticing therein that the last date for the appellant to join the PG (General Medicine) Course at RR Hospital is 26.12.2024 and as such, respondent was directed to extend the time for joining of the appellant by a period of two weeks.

12. Rebutting the opposition made to the prayers in this intra-Court



appeal by the learned counsel representing the Respondent no.1 – MCD, learned counsel representing the appellant in rejoinder has submitted that even if the study leave was not permissible as per the provisions of the Leave Rules, the appellant was entitled for grant of extraordinary leave, which prayer ought to have been granted to the appellant considering that the course where he was seeking admission, i.e., PG (General Medicine) at RR Hospital could have not only enhanced his skills as a medical professional but would have also served the cause of the hospital of the MCD where he was employed as medical officer.

13. It has also been argued that since admission to the appellant was granted in compliance of the order passed by a Division Bench of this Court on 31.05.2024 in the earlier LPA filed by him, the authorities of the MCD were under mandate of the said order to have permitted him to join the PG (General Medicine) course at RR Hospital by granting the requisite study leave.

14. Submission further on behalf of the appellant is that he had availed the study leave of about 10 months while pursuing his DNB Course at HRH under compelling circumstances and for the reason that the admission to him for PG (General Medicine) course at RR Hospital was denied on account of the fact that the sponsorship certificate issued in this regard by the MCD was not being treated to be as per the requirement. Therefore, the submission is that he cannot be held responsible for not joining the PG (General Medicine) course at RR Hospital and instead, till pendency of the earlier LPA, he joined the DNB Course at HRH. It is argued, thus, that had the sponsorship certificate been appropriately issued by the MCD at the time when his result



for admission to join PG (General Medicine) course at RR Hospital was declared, he would not have joined the DNB course at HRH and, therefore, he would not have even availed 10 months' study leave.

15. Having considered the rival submissions made by learned counsel for the parties, we are of the opinion that there is no infirmity with the impugned order dated 21.11.2024 passed by the learned Single Judge which calls upon us to interfere with the same.

16. Admittedly, in respect of matters relating to leave, the appellant is governed by the Central Civil Services (Leave) Rules, 1972 (hereinafter referred to as the '**Leave Rules**'). The provision for grant of study leave is available in Rule 50 of the said Rules which is extracted hereunder:

***"50. Conditions for grant of study leave.—** (1) Subject to conditions specified in this Chapter, study leave may be granted to a Government servant with due regard to the exigencies of public service to enable him to undergo, in or out of India, a special course of study consisting of higher studies or specialised training in a professional or a technical subject having a direct and close connection with the sphere of his duty.*

(2) Study leave may also be granted—

(i) for a course of training or study tour in which a Government servant may not attend a regular academic or semi-academic course if the course of training or the study tour is certified to be of definite advantage to Government from the point of view of public interest and is related to sphere of duties of the Government servant; and

(ii) for the purposes of studies connected with the framework or background of public administration subject to the conditions that—

(a) the particular study or study tour should be approved by the authority competent to grant leave; and

(b) the Government servant should be required to submit, on his return, a full report on the work done by him while on study leave;

(iii) for the studies which may not be closely or directly connected with the work of a Government servant, but which are capable of widening his mind in a manner likely to improve his abilities as a



civil servant and to equip him better to collaborate with those employed in other branches of the public service.

Note.— Applications for study leave in cases falling under clause (iii) shall be considered on merits of each case in consultation with the Department of Expenditure of the Ministry of Finance.

(3) Study leave shall not be granted unless—

(i) it is certified by the authority competent to grant leave that the proposed course of study or training shall be of definite advantage from the point of view of public interests;

(ii) it is for prosecution of studies in subjects other than academic or literary subject:

Provided that an officer of the Indian Economic Service or Indian Statistical Service may be granted study leave for prosecuting a course of study for obtaining Ph.D., on a research thesis, subject to the conditions that—

(a) the subject of research and the institution at which such research is to be undertaken are got approved by the Chief Economic Adviser to the Government of India, in case the applicant is a member of the Indian Economic Service, or by the Director, Central Statistical Organisation, in case the applicant is a member of the Indian Statistical Service;

(b) the applicant obtains a certificate from the said authority to the effect that such study will be valuable in the matter of increasing the efficiency of the officer in the performance of his duties as a member of the Indian Economic Service or the Indian Statistical Service, as the case may be; and

(c) in cases where the study is to be undertaken at a foreign university, the applicant obtains a further certificate that the facilities for research on the particular subject chosen for study are not available at any University or other Institution in India:

Provided further that a Medical Officer may be granted study leave for prosecuting a course of postgraduate study in Medical Sciences if the Director-

General of Health Services certifies to the effect that such study shall be valuable in increasing the efficiency of such Medical Officer in the performance of his duties:

Provided also that a specialist or a technical person may be granted study leave, on merits of each case for prosecuting a postgraduate course of study directly related to the sphere of his duty in case the Head of the Department or the Secretary to the Department or Ministry concerned certifies that the course of study shall enable the specialist or the technical person, as the case may be, to keep abreast



with modern development in the field of his duty, improve his technical standards and competence and thus substantially benefit the Department or Ministry.

(iii) the Department of Economic Affairs of the Ministry of Finance agrees to the release of foreign exchange involved in the grant of study leave, if such leave is outside India:

Provided that in releasing foreign exchange to Government servants proceeding on study leave abroad, the Department aforesaid shall satisfy itself whether such Government servants comply with the minimum educational criteria as specified in the general orders issued by the said Department from time to time regulating release of foreign exchange to persons proceeding abroad for higher studies at their expense.

(4) Study leave out of India shall not be granted for the prosecution of studies in subjects for which adequate facilities exist in India or under any of the Schemes administered by the Department of Economic Affairs of the Ministry of Finance or by the Ministry of Education.

(5) Study leave may be granted to a Government servant—

(i) who has satisfactorily completed period of probation and has rendered not less than five years' regular continuous service including the period of probation under the Government;

(ii) who is not due to reach the age of superannuation from the Government service within 163[three years (five years in the case of Central Health Service Officer who has been granted thirty-six months' study leave under sub-rule (2) of Rule 51) from] the date on which he is expected to return to duty after the expiry of the leave; and

(iii) who executes a Bond as laid down in Rule 53(4) undertaking to serve the Government for a period of 164[three years (five years in the case of Central Health Service Officer who has been granted thirty-six months' study leave under sub-rule (2) of Rule 51) after] the expiry of the leave.

(6) Study leave shall not be granted to a Government servant with such frequency as to remove him from contact with his regular work or to cause cadre difficulties owing to his absence on leave."

17. As per the provisions contained in the afore-quoted Rule 50 of the Leave Rules, a government servant is entitled to avail study leave under certain conditions. So far as a medical officer is concerned, as per the second proviso appended to Sub Rule 3 of Rule 50 of the Leave Rules, he may be granted study leave for pursuing postgraduate course of study in



Medical Sciences if it is certified by the Director-General of Health Services that such study will be valuable in increasing his efficiency in performance of his duties.

18. Rule 51 of the Leave Rules provides for maximum amount of study leave. The same is quoted hereunder:

“51. Maximum amount of study leave.—(1) The maximum amount of study leave, which may be granted to a Government servant, other than Central Health Service Officers, shall be—

(a) Ordinarily twelve months at any one time, and

(b) During his entire service, twenty-four months in all (inclusive of similar kind of leave for study or training granted under any other rules).

(2) In respect of Central Health Service Officers, study leave may be granted for thirty-six months for acquiring postgraduate qualification, subject to the condition that a Central Health Service Officer who has been granted such study leave shall execute a bond under sub-rule (4) of Rule 53 to serve the Government for a period of five years after completion of the study course.”

19. As per Sub Rule 2 of Rule 51 of the Leave Rules, as quoted above, in case of an officer working in health services, the maximum study leave permissible to be granted is for 36 months for acquiring postgraduate qualification. This is, however, subject to the condition that such health officer shall execute a bond to serve the Government for a period of five years after completion of the study course.

20. Thus, there is no ambiguity that leave of 36 months maximum is permissible to a medical officer for pursuing a postgraduate study course in medical sciences. In the instant case, as already noted above, the appellant, undisputedly, had already availed 10 months' study leave while pursuing his DNB Course at HRH and, therefore, the maximum period of study leave which could be granted to him was 26 months. Since the period of



completion of PG (General Medicine) Course at RR Hospital is 36 months and the appellant was entitled to study leave for a maximum period of 26 months, even if he was granted study leave for 26 months, he would not have been able to complete his PG (General Medicine) Course at RR Hospital.

21. So far as the submission on behalf of the appellant that he ought to have been granted extraordinary leave, we may observe that in terms of Rule 32 of the Leave Rules, extraordinary leave is permissible to be granted in special circumstances such as (a) when no other leave is admissible and (b) when other leave is admissible, but the Government servant applies in writing for the grant of extraordinary leave. Rule 32 of the Leave Rules is extracted herein below:

“32. Extraordinary leave.—(1) Extraordinary leave may be granted to a Government servant (other than a military officer) in special circumstances—

(a) when no other leave is admissible;

(b) when other leave is admissible, but the Government servant applies in writing for the grant of extraordinary leave.

(2) Unless the President in view of the exceptional circumstances of the case otherwise determines, no Government servant, who is not in permanent employ or quasi-permanent employ, shall be granted extraordinary leave on any one occasion in excess of the following limits:—

(a) three months;

(b) six months, where the Government servant has completed one year's continuous service on the date of expiry of leave of the kind due and admissible under these rules, including three months extraordinary leave under clause (a) and his request for such leave is supported by a medical certificate as required by these rules;

*(c) [***]*

(d) eighteen months, where the Government servant who has completed one year's continuous service is undergoing treatment for—

(i) Pulmonary Tuberculosis or Pleurisy of tubercular origin, in a recognised sanatorium;

Note.—The concession of extraordinary leave up to eighteen months shall be admissible also to a Government



servant suffering from Pulmonary Tuberculosis or Pleurisy of tubercular origin who receives treatment at his residence under a Tuberculosis Specialist recognised as such by the State Administrative Medical Officer concerned and produces a certificate signed by that Specialist to the effect that he is under his treatment and that he has reasonable chances of recovery on the expiry of the leave recommended.

(ii) Tuberculosis of any other part of the body by a qualified Tuberculosis Specialist or a Civil Surgeon or Staff Surgeon; or

(iii) Leprosy in a recognised leprosy institution or by a Civil Surgeon or Staff Surgeon or a Specialist in leprosy hospital recognised as such by the State Administrative Medical Officer concerned;

(iv) Cancer or for mental illness, in an institution recognised for the treatment of such disease or by a Civil Surgeon or Staff Surgeon or a specialist in such disease;

(e) twenty-four months, where the leave is required for the purpose of prosecuting studies certified to be in the public interest, provided the Government servant concerned has completed three years continuous service on the date of expiry of leave of the kind due and admissible under these rules, including three months extraordinary leave under clause (a).

(3) (a) Where a Government servant is granted extraordinary leave in relaxation of the provisions contained in clause (e) of sub-rule (2), he Query missing word shall be required to execute a Bond in Form 6 undertaking to refund to the Government the actual amount of expenditure incurred by the Government during such leave plus that incurred by any other agency with interest thereon in the event of his not returning to duty on the expiry of such leave or quitting the service before a period of three years after return to duty.

(b) The Bond shall be supported by sureties from two permanent Government servants having a status comparable to or higher than that of the Government servant.

(4) Government servants belonging to the Scheduled Castes or the Scheduled Tribes may, for the purpose of attending the Pre-Examination Training Course at the centres notified by the Government from time to time, be granted extraordinary leave by Head of Department in relaxation of the provisions of sub-rule (2).

(5) Two spells of extraordinary leave, if intervened by any other kind of leave, shall be treated as one continuous spell of extraordinary leave for the purposes of sub-rule (2).

(6) The authority competent to grant leave may commute retrospectively periods of absence without leave into extraordinary leave.”



22. We may note that there is nothing on record which establishes that the appellant ever applied for grant of extraordinary leave in terms of Rule 32(1)(b) of the Leave Rules, before the authorities of the MCD. In absence of any such prayer for grant of extraordinary leave, it will neither be permissible nor possible for this Court to pass any direction to the MCD to grant extraordinary leave to the appellant.

23. We may also note that the PG (General Medicine) Course at RR Hospital had commenced in the month of December, 2024 and, therefore, even if having regard to the facts and circumstances, the Court takes a sympathetic view and directs the MCD to consider granting extraordinary leave to the appellant, it will not be possible for the appellant, at present, to pursue and conclude his PG (General Medicine) Course at RR Hospital for the reason that since December, 2024, till date, it has been a period of 20 months and permitting the appellant to join the PG (General Medicine) Course midway will not be permissible.

24. On behalf of the appellant, it has been argued in this regard that this Court while entertaining the instant appeal had passed an interim order on 24.12.2024 directing the RR Hospital to extend the time for joining of the appellant by a period of two weeks since the last date of joining was 26.12.2024 and the said interim order dated 24.12.2024 has been extended from time to time as such, while directing the MCD to consider the prayer for grant of extraordinary leave, a further direction can be issued to RR Hospital to admit the appellant. In our considered opinion, even if the interim order dated 24.12.2024 has been extended from time to time, it will



not mean that the appellant will be entitled to be admitted in PG (General Medicine) Course at RR Hospital after expiry of a period of 20 months from the date of commencement of the course. The reason is that during this intervening period of 20 months the next batch of students for the academic session 2025-26 must have been admitted and they must be pursuing their studies and even for the next academic session 2026-27, either admissions might have been made or process for admission might be in vogue at present. The seats, both in undergraduate and postgraduate courses in medical colleges, are sanctioned statutorily under the relevant provisions of law by the regulating body, namely National Medical Commission, and by a Court's Order the number of seats cannot be enhanced.

25. In the facts of the case it appears to be unfortunate, however, having regard to the totality of the circumstances, we are unable to accede to the prayer made by learned counsel for the appellant on his behalf.

26. For the reasons aforesaid, we do not find any good ground to interfere with the impugned order dated 21.11.2024 passed by the learned Single Judge and resultantly the appeal is hereby dismissed.

27. There shall be no order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

AUGUST 6, 2026/ N.Khanna