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

% **Date of decision: 24.12.2025**

\+ W.P.(C) 19730/2025, CM APPL. 82382/2025 & CM APPL. 82383/2025

DR LAKSHAY BERIWAL .....Petitioner

Through: Mr. Ankur Chibber, Mr. Avadh Kaushik, Ms. Saloni Mahajan, Mr. Prateek Goyal, Mr. Rishabh Kumar and Mr. Anshuman, Advs.

versus

GURU TEG BAHADUR HOSPITAL & ORS. .....Respondents

Through: Mrs. Avnish Ahlawat, SC with Mr. N K Singh, Ms. Aliza Alam & Mr. Mohnish Sehrawat, Advs. for R- 1 & 2.
Mr. Pushp Raj Yadav, Asstt. For R-1.
Mr. Shiven Varma & Mr. Dhruv Malik, Advs. for R-5.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN

AVNEESH JHINGAN, J. (ORAL)

1. This petition is filed seeking quashing of the Office Memorandum (OM) dated 19.12.2025 rejecting the request of the petitioner for grant of No Objection Certificate (for short 'NOC') for pursuing MD (Nuclear Medicine) at PGIMER Chandigarh.

2. The brief facts are that the petitioner joined as a Medical

Officer on 18.09.2020 with Directorate General of Health Services (DGHS), Government of NCT of Delhi (hereinafter 'GNCTD'). The petitioner was appointed as a General Duty Medical Officer under GNCTD. In April 2022, the petitioner was transferred to Guru Teg Bahadur Hospital (for brevity 'GTB Hospital'). On 30.09.2025, All India Institute of Medical Sciences (AIIMS) New Delhi invited applications for post graduation courses. The petitioner on 01.10.2025 applied for permission to appear in the entrance test for post graduate examinations under the sponsored category and the permission was granted on 30.10.2025. The result of examination was declared on 15.11.2025 and the petitioner was allocated a seat in post graduation in Nuclear Sciences at PGIMER Chandigarh. On 19.12.2025, the request of the petitioner for grant of study leave and issuance of NOC was rejected. It was stated that at a time only three doctors can be sponsored by GTB Hospital for post graduation courses and two doctors are already pursuing the post graduation. The petitioner and the private respondent (respondent no.5) both are successful in clearing entrance test of post graduation courses but only one can be sponsored. Considering respondent no.5 was senior her request for study leave and NOC was acceded and the application of the petitioner was rejected. Hence, the present petition.

3. Learned counsel for the petitioner submits that the Standard Operating Procedure (for brevity 'SOP') does not stipulate that the study leave shall be granted on the basis of seniority. The contention is that the petitioner should have been granted study leave being higher in merit to respondent no.5 in entrance test for post graduation

courses. It is argued that once the permission was granted to appear in the entrance test for post graduation thereafter the study leave could not be denied. Submission is that the petitioner being an employee of GNCTD could be transferred to some other hospital for sponsorship to overcome the limitation of the GTB Hospital of not sponsoring more than three doctors for post graduation courses. Reliance is placed upon the letter of the Chief Minister dated 31.10.2025 to contend that there is shortage of doctors of Nuclear Sciences.

3.1 Reliance is placed upon the decision of the Supreme Court in **Sudhir N. & Ors. v. State of Kerela & Ors. (2015) 6 SCC 685** to contend that the admission to post graduation courses should be on merit and not on seniority basis.

3.2 The decision in **Dr. Rohit Kumar v. Secretary Office of Lt. Governor of Delhi & Ors. 2021 INSC 336** is pressed into service to submit that in similar circumstances the interest of the petitioner in that case was protected and directions were issued to join the course.

3.3 Reliance is placed upon **Devesh Sharma v. Union of India (2023) 18 SCC 339** to argue that arbitrary and irrational policy decisions should be interfered by exercising the power of judicial review.

4. Learned counsel for GNCTD submits that the rationale for restricting the number of doctors to be sponsored for post graduation courses was to ensure that the required numbers of doctors are available for attending the patients and therefore policy decision was taken on the basis of the sanctioned strength of the institution. It is contented that in 2023 the respondent no.5 qualified the post

graduation entrance test but could not join as only one candidate was to be sent and she was not the senior most among the successful candidates.

5. Learned counsel for respondent no.5 submits that irreparable loss would be caused to respondent no.5 in case of non-sanctioning of study leave despite her being the senior most amongst the candidates qualifying the entrance test for post graduation. The grievance is that an administrative decision was arrived at considering the seniority of the applicants for grant of study leave is challenged whereas same was followed in 2023 to deny study leave to respondent No 5.

6. As per OM dated 02.11.2012, the number of officers allowed to join post graduate courses is on the basis of the sanctioned strength of officers in the organisation/institute. The stipulation that three officers from GTB Hospital are allowed to join post graduate courses is not challenged by the petitioner. The two doctors from the GTB Hospital are already undertaking post graduation courses, now the petitioner and respondent no.5 qualified the entrance test for post graduation courses and only to one the study leave can be sanctioned in view of OM dated 02.11.2012.

7. It is admitted position by the parties that the SOP does not provide the criteria to be followed in eventuality of two candidates seeking study leave and only one is to be allowed.

8. In the present case the issue was decided relying upon the seniority of the candidates which is a relevant factor for arriving at the decision. The impugned order is neither arbitrary nor unreasonable. An administrative order sanctioning the study leave to respondent no.5

is challenged in the writ petition. It is a trite law that this Court shall not sit as an appellate authority over the administrative decision. Only in exceptional circumstances the interference is to be made in writ jurisdiction, reference in this regard be made to the following decisions of the Apex Court:-

8.1 The Supreme Court in ***U.P. Financial Corpn. v. Gem Cap (India) (P) Ltd.*, (1993) 2 SCC 299** held as under:

> "11. The obligation to act fairly on the part of the administrative authorities was evolved to ensure the rule of law and to prevent failure of justice. This doctrine is complementary to the principles of natural justice which the quasi-judicial authorities are bound to observe. It is true that the distinction between a quasi-judicial and the administrative action has become thin, as pointed out by this Court as far back as 1970 in *A.K. Kraipak* v. *Union of India* [(1969) 2 SCC 262 : AIR 1970 SC 150] . Even so the extent of judicial scrutiny/judicial review in the case of administrative action cannot be larger than in the case of quasi-judicial action. If the High Court cannot sit as an appellate authority over the decisions and orders of quasi-judicial authorities it follows equally that it cannot do so in the case of administrative authorities. In the matter of administrative action, it is well known, more than one choice is available to the administrative authorities; they have a certain amount of discretion available to them. They have "a right to choose between more than one possible course of action upon which there is room for reasonable people to hold differing opinions as to which is to be preferred". (Lord Diplock in Secretary of State for Education and Science v. Metropolitan Borough Counsel of Tameside [1977 AC 1014, 1064 : (1976) 3 All ER 665] .) The Court cannot substitute its judgment for the judgment of administrative authorities in such cases. Only when the action of the administrative authority is so

unfair or unreasonable that no reasonable person would have taken that action, can the Court intervene."

8.2 The Supreme Court in ***Union of India v. K.G. Soni*, (2006) 6 SCC 794** held as under:

> "13. In *Union of India* v. *G. Ganayutham* [(1997) 7 SCC 463 : 1997 SCC (L&S) 1806] this Court summed up the position relating to proportionality in para 31, which read as follows : (SCC pp. 478-79)
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> > "*31*. The current position of proportionality in administrative law in England and India can be summarised as follows:
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> > (*1*) To judge the validity of any administrative order or statutory discretion, normally the *Wednesbury* [*Associated Provincial Picture Houses Ltd.* v. *Wednesbury Corpn.*, (1948) 1 KB 223 : (1947) 2 All ER 680 (CA)] test is to be applied to find out if the decision was illegal or suffered from procedural improprieties or was one which no sensible decision-maker could, on the material before him and within the framework of the law, have arrived at. The court would consider whether relevant matters had not been taken into account or whether irrelevant matters had been taken into account or whether the action was not bona fide. The court would also consider whether the decision was absurd or perverse. The court would not however go into the correctness of the choice made by the administrator amongst the various alternatives open to him. Nor could the court substitute its decision to that of the administrator. This is the *Wednesbury* [*Associated Provincial Picture Houses Ltd.* v. *Wednesbury Corpn.*, (1948) 1 KB 223 : (1947) 2 All ER 680 (CA)] test.
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14. The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury case* [*Associated Provincial Picture Houses Ltd.* v. *Wednesbury Corpn.*, (1948) 1 KB 223 : (1947) 2 All ER 680 (CA)] the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in the decision-making process and not the decision."

8.3 The Supreme Court in ***Ranjeet Baburao Nimbalkar Vs. State of Maharashtra and Ors. Writ Petition (Civil) No. 914 of 2025, decided On: 18.12.2025*** held as under:

"42. At this stage, it is necessary to recall the settled limits of judicial review in matters involving administrative and policy decisions. Judicial review is concerned with the legality of the decision-making process, not with the merits of the decision itself. Courts do not sit in appeal over administrative choices, nor do they substitute their own views for those of the authority entrusted with the discretion by law.

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44. Interference by this Court is warranted only in limited situations, such as where the action is shown to be beyond statutory authority, tainted by mala fides, influenced by extraneous considerations, or so unreasonable as to warrant judicial correction. In the absence of such circumstances prevalent, the Court would exercise restraint. Any other approach would risk trenching upon the autonomy necessary for the effective functioning of the High Court. In the present case, no such infirmity has been

demonstrated."

8.4 The Supreme Court in ***W.B. Central School Service Commission v. Abdul Halim*, (2019) 18 SCC 39** held as under:

> "27. It is well settled that the High Court in exercise of jurisdiction under Article 226 of the Constitution of India does not sit in appeal over an administrative decision. The Court might only examine the decision-making process to ascertain whether there was such infirmity in the decision-making process, which vitiates the decision and calls for intervention under Article 226 of the Constitution of India."
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> *(emphasis supplied)*

9. The contention of the petitioner that merit in the entrance test to the post graduation courses should form the basis for sanctioning the study leave, lacks merit. The merit in the entrance test is for allocation of seat and the nature of course to be offered to the candidate and not for purposes of solving inter se disputes between the two candidates of the same institution with regard to the sponsorship and grant of study leave.

10. The argument that the petitioner should be transferred to another hospital where the number of the officers to be sponsored for post graduation courses is more is ill-founded. The number of the officers stipulated for joining the post graduation courses in Clause 28 of the OM dated 02.11.2012 is on the basis of the sanctioned strength in an organization/institute. The rationale of the restriction as argued by counsel for the GNCTD need not be gone into in absence of a challenge to the OM and the number of seats stipulated therein. The other angle to be considered is the sanctioned strength of the officers

is to be seen of the organization/institute and not that of the employer that is GNCTD in this case. Clause 24 of the OM dated 02.11.2012 provides that in place of the officer pursuing the higher studies no substitute shall be provided, the officer continues to be borne on strength of that organization and shall re-join the same organisation on completion of the study.

11. The argument that after permission was granted to appear in the entrance test the study leave cannot be denied is noted to be rejected. At the time of granting permission for appearing in the entrance test the considerations are different and only the eligibility of the candidate for availing the sponsorship is to be gone into. An eligible candidate at that stage cannot be ousted by considering the number of candidates who can be sent for post graduation courses. The number of the candidates qualifying in entrance test for post graduation courses at that time is not before the competent authority. No vested right for sponsorship accrues in favour of the petitioner by grant of the permission to appear in the entrance exam.

12. Reliance on the letter dated 31.10.2025 written by the Chief Minister of Delhi to Union Minister of Health and Family Welfare to fortify the contention that the course to be undertaken by the petitioner is of more importance does not enhance the case of the petitioner. The request in that letter was for posting suitable faculty of nuclear medicines from Central Health Service cadre till the recruitment of faculty by Delhi State Cancer Institute.

13. It cannot be lost sight of that the sanctioning of study leave taking into consideration the seniority of the applicants was followed

by the GTB Hospital earlier also. In 2023 four doctors qualified the entrance test for post graduation courses, including respondent no. 5 but the sponsorship and study leave was to be sanctioned to one candidate and the decision was taken on the basis of seniority denying the sponsorship and the study leave to respondent No 5. With the change of criteria at this stage grave prejudice would be caused to respondent no. 5, earlier she was denied sponsorship for not being the senior most amongst the successful candidates and now she would be ousted by considering the merit in the entrance test.

14. In all fairness the decisions relied upon by learned counsel for the petitioner are being dealt with. In **Sudhir N. & Ors.** (supra), the challenge before the Supreme Court was to the admission in the post graduate courses on the basis of the *inter se* seniority of the candidates. It was held that the criteria were beyond the methodology sanctioned under Regulation 9 of the regulations framed under Medical Council of India Act, 1956. The case is not applicable to the facts of the present case where there is no violation of statutory provisions.

14.1 In **Dr. Rohit Kumar** (supra), the policy decision of the Government of Delhi not to give study leave to the doctors in the apprehension of the rise of COVID-19 cases was dealt by the Supreme Court holding that the policy cannot continue indefinitely and has to be reviewed from time to time with the change of circumstances. The Supreme Court in exercise of power under Article 142 of Constitution of India in the peculiar facts of that case specifying that the order is not to be treated as precedent ordered the petitioner to join the post

graduate course.

14.2 In **Devesh Sharma** (supra), the policy decision of introducing B.Ed as qualification for appointment of the primary teachers was under challenge. While dealing with the challenge to the policy decision it was held that the power of judicial review must be exercised in case the policy decision is contrary to law or arbitrary. At the cost of repetition the restriction to send three officers from GTB Hospital at a time for post graduation courses is not under challenge in this writ.

15. The impugned order passed is neither arbitrary nor irrational; the view taken is possible one. The impugned order suffers from no legal or factual error much less perversity, the writ petition is dismissed. Pending applications stand dismissed.

16. Copy of the order be supplied *dasti* to the petitioner.

AVNEESH JHINGAN, J.

DECEMBER 24, 2025
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Reportable:- **Yes**