

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.194/2022

Dr. Sukomal Sarkar, S/O. Late Nirod Baran Sarkar, A resident of Melarmath, Gangail Road, Agartala, P.O.-Agartala, Pin-799001, P.S.-West Agartala, District-West Tripura. Aged about 54 years.

.....Petitioner(s).

V E R S U S

1. The State of Tripura, through the Secretary to the Government of Tripura, Health & Family Welfare Department, New Secretariat Complex, Agartala, P.O.-Agartala Secretariat-799010, West Tripura.

2. The Deputy Secretary to the Government of Tripura, Health & Family Welfare Department, New Secretariat Complex, Agartala, P.O.-Agartala Secretariat-799010, West Tripura.

3. The Director of Medical Education, Government of Tripura, Bidur Karta Chowmohani, Agartala, P.O.-Agartala-799001, P.S.-West Agartala, District-West Tripura.

4. The Principal, Agartala Government Medical College & GBP Hospital, P.O.-Kunjaban-799006, P.S.-New Capital Complex, Agartala, District-West Tripura.

5. Dr. Dipen Roy, S/O. Shri Dilip Roy, A resident of Akhaura Road, Near Tripura Times Office, Agartala, P.O.-Agartala, P.S.-West Agartala, District-West Tripura.

.....Respondent(s).

For Petitioner(s) : Mr. S.M. Chakraborty, Sr. Advocate,
Mr. Suman Bhattacharjee, Advocate,
Mrs. P. Chakraborty, Advocate,
Ms. Ankita Pal, Advocate.

For Respondent(s) : Mr. Dipankar Sarma, Addl. G.A.,
Ms. R. Guha, Advocate,
Ms. Sudipa Nath, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment: **30th August, 2023.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER(ORAL)

Heard Mr. S.M. Chakraborty, learned senior counsel assisted by
Mrs. P. Chakraborty, learned counsel appearing for the petitioner, Mr.

Dipankar Sarma, learned Addl. Government Advocate appearing for the State respondents and Ms. R. Guha, learned counsel appearing for the private respondent No.5.

2. By the impugned reasoned order dated 04.10.2021 passed in pursuance to the directions rendered in case No. WP(C) No.434 of 2021, the respondent-competent authority under the Department of Health & Family Welfare, Government of Tripura has rejected the representation of the petitioner regarding regularization in the post of Registrar, Department of Orthopaedics, Agartala Government Medical College & G.B.P. Hospital, Agartala. Petitioner had assailed the notification dated 12.09.2017 so far as it related to the absorption of the private respondent No.5 as Basic Teacher (Tutor/Senior Resident/Registrar) in Agartala Government Medical College & G.B.P. Hospital, Agartala alleging deprivation of the chances of the petitioner. Petitioner had also prayed for commanding the respondents to absorb him in the post of Basic Teacher, i.e. Registrar/Tutor in the Department of Orthopaedics, Agartala Government Medical College & G.B.P. Hospital, Agartala in regular capacity from the initial date of his engagement, i.e. 16.02.2012 and to release the arrears of allowances @ Rs.3,000/-.

3. It is the case of the petitioner that he has acquired the qualification of M.S. in Orthopaedics and was declared as a full time Registrar/Tutor while working on the post of Medical Officer in Tripura Health Service vide notification dated 16.02.2012 (Annexure-2) issued in the name of the Governor of Tripura. However, he has not been absorbed/regularized in the Agartala Government Medical College and G.B.P. Hospital, Agartala though respondent

No.5 who is only a diploma holder in Orthopaedics has been regularized as such. Another junior doctor Anupam Debnath has been appointed to the superior post of Assistant Professor ignoring the eligibility of the petitioner but the said person has not been impleaded as a party. Petitioner had approached this Court in WP(C) No.434 of 2021 which was disposed at the stage of motion directing the respondents to consider the case of the petitioner within a period of 3(three) months. However, by the impugned order dated 04.10.2021 the representation of the petitioner has been rejected. Petitioner had once again approached this Court in another writ petition but the same was withdrawn on 15.12.2021 as some additional information were to be furnished in support of his case. Pursuant to the liberty granted therein, he has filed the present writ petition.

4. Mr. S.M. Chakraborty, learned senior counsel assisted by Mrs. P. Chakraborty, learned counsel appearing for the petitioner, submits that the petitioner has obtained the qualification of M.S. in Orthopaedics in 2011, i.e. a higher qualification than the private respondent who was only a diploma in Orthopaedics obtained in the year 2001. As such, petitioner has a better case for being considered for regularization in the Department of Orthopaedics in the Medical College. Learned senior counsel for the petitioner further submits that petitioner after having been appointed as a full time Registrar/Tutor in the Department of Orthopaedics vide Annexure-2 dated 16.02.2021² should be treated as regularized and absorbed in the Tripura Medical Education Service in terms of the Tripura Medical Education (Administrative & Faculty) Service Conditions Rules, 2015 (*hereinafter referred to as "the Rules of 2015"*), since

he was absorbed in the Medical College from 2012. Learned counsel for the petitioner has further submitted that petitioner was posted at various places after his appointment as a full time Registrar/Tutor in the Agartala Government Medical College & G.B.P. Hospital for considerable period between 2012 to 2016. It is submitted that the petitioner was sent on deputation to Tripura Sundari District Hospital, Udaipur, Gomati Tripura w.e.f. 26.09.2012 vide order dated 24.09.2012 issued by the Director of Health Services, Government of Tripura (Annexure-A/5 to the counter affidavit of respondent No.5). The order of deputation itself means that the petitioner was absorbed in the Medical College and, therefore, could be sent for deputation only to any other hospital. In this regard, learned senior counsel for the petitioner has relied upon a decision of the Apex Court in the case of *State of Punjab & others vrs. Inder Singh & others* reported in (1997) 8 SCC 372 (paragraph-18). It is submitted that petitioner returned from deputation to the Agartala Government Medical College & G.B.P. Hospital vide order dated 08.09.2016 (Annexure-A/6 to the counter affidavit of respondent No.5). It is, however, not in dispute that the petitioner did not submit his option for being absorbed in the Tripura Medical Education Service in terms of the Rule 5(b) of the Rules of 2015 notified on 04.08.2015 (Annexure-A/1 to the counter of respondent No.5) and brought into force w.e.f. the date of publication in the Official Gazette, i.e. 21.09.2015. However, learned senior counsel for the petitioner submits that petitioner is an expert in knee replacement and his services should be better utilized in the Medical College and Hospital both for teaching purposes as also for treatment of the inhabitants of the State in a specialized hospital, like AGMC & GBP Hospital which is in the capital of the State. It is further submitted that the

regularization of respondent No.5 is not proper in the eye of law. If the services of the petitioner are regularized in the Tripura Medical Education Service, no additional burden would be cast upon the State.

5. Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the State respondents and Ms. R. Guha, learned counsel appearing for the private respondent No.5 have opposed the prayer. The respondents-State has filed a counter affidavit, *inter alia*, stating that the petitioner is not similarly situated with others who had exercised their option and have been absorbed as Basic Teacher/Registrar in the Department of Orthopaedics, AGMC & GBP Hospital in terms of the Rules of 2015. The qualification of the petitioner and the private respondent have also been referred to in paragraph-13. It is submitted that the competent authority has taken into account that in the seniority list of 2009, the private respondent who had obtained Post Graduate Diploma in Orthopaedics in the year 2001 was senior to the petitioner who was only MBBS till 2010 and had obtained the M.S. qualification in Orthopaedics in 2011. The other Dr. Anupam Debnath has not been made a party in the writ petition and as such, any averments made as against him need not be rebutted on the part of the State. Petitioner has also not questioned the status of the other person Dr. Anupam Debnath as petitioner is interested only on the post of Registrar/Tutor in Orthopaedics in the Medical College.

6. Respondent No.5 has filed a counter affidavit and also an additional counter affidavit. Learned counsel for the respondent No.5 submits that petitioner has failed to exercise the option to join the Tripura Medical

Education Service in view of Rule 5(b) of the Rules of 2015 framed by notification dated 04.08.2015. It is further submitted that the exercise of option was further extended by the notification dated 11.05.2017 pursuant to the Tripura Medical Education (Administrative & Faculty) Service Conditions Rules, 2015, (1st Amendment) Rules, 2016. However, the reasoned order itself indicates that petitioner did not submit the option form for absorption under Tripura Medical Education Service from Tripura Health Service within the stipulated period. It is submitted that the claim of the petitioner, therefore, is not tenable in the eye of law. It is further submitted that the Tripura Medical Education Service Rules were framed for the first time in the year 2015 and as such, the contention of the petitioner that he was already absorbed in the Medical Education Service vide Annexure-2 dated 16.02.2012 is misconceived. As such, the impugned order passed by the competent authority under the respondent-department does not suffer from any error warranting interference in writ jurisdiction.

7. I have considered the submissions of learned counsel for the parties and taken note of the materials placed from the record and also the Rules of 2015 (Annexure-A/1 to the counter affidavit of respondent No.5). It appears from perusal of the notification dated 04.08.2015 published in the gazette on 21.09.2015 that for the first time the Governor of Tripura, in consultation with the Tripura Public Service Commission, has been pleased to frame the Rules of 2015 to regulate the method and conditions of the service for persons appointed to the Tripura Government Medical Education

(Administrative & Faculty) Services. The relevant part of the rules are extracted hereunder:

"1. SHORT TITLE AND COMMENCEMENT:-

- i. Short Title: These rules may be called the Tripura Medical Education (Administrative & Faculty) Service conditions Rules, 2015.
- ii. Commencement: They shall come into force with effect from the date of their publication in the official gazette.

2. DEFINITION:

In these rules unless there is anything repugnant to the subject or context:

- (a) "Government" means the State Government of Tripura.
- (b) "Commission" means the Tripura Public Service Commission.
- (c) "Governor" means the Governor of Tripura.
- (d) "Service" means the Tripura Medical Education Service (Administrative & Faculty) service conditions.
- (e) "Members of the service" means the Officers/ Faculties/ Doctors appointed or deemed to have been appointed under the provisions of the rules.
- (f) "Year" means the Calendar year.
- (g) "MCI" means Medical Council of India.
- (h) "Medical College" means Agartala Government Medical College, Agartala.
- (i) "Teaching Hospital" means Govind Ballabh Pant Hospital or G.B.P. Hospital.

3. CONSTITUTION OF THE TRIPURA MEDICAL EDUCATION (ADMINISTRATIVE & FACULTY) SERVICE CONDITIONS RULES AND ITS CLASSIFICATION.

I. On and from the date of commencement of these rules, there shall be a constituted Service to be known as the "Tripura Medical Education (Administrative & Faculty) Service Conditions"

II. The service shall have two wings namely (a) administrative and (b) faculties for Medical College and its attached Teaching Hospital.

a. The administrative wing shall consist of the following categories of administrative posts in the Medical Education Directorate, Medical College and Teaching Hospital of the Medical College.

Administrative Posts for Directorate of Medical Education, Medical College & G.B.P. Teaching Hospital.

Administrative posts for the Directorate of Medical Education, Govt. of Tripura.

- Category-1: (a) Director of Medical Education (1 post)
(b) Joint Director of Medical Education (1 post)

Administrative posts for Medical College (A.G.M.C.)

- Category-2: (a) Principal of Government Medical College (1 post)
(b) Registrar (Administration) (1 post)

Administrative posts for G.B.P. Teaching Hospital of the Medical College (to be created).

Category-3: (a) Medical Superintendent-cum-Vice Principal (1 post)

(b) Deputy Medical Superintendent of Teaching Hospital (1 post)

(c) Residential Medical Officer (RMO)-(1 post)

Different Teaching Posts in Medical College and its attached Teaching Hospital.

(a) Different Teaching Posts in a Medical College and its attached Teaching Hospitals are as per norms/guidelines defined in the norms/guidelines of Medical Council of India and as amended from time to time.

Teaching posts of Medical College are (1) Professor, (2) Associate Professor, (3) Assistant Professor, (4) Tutor, (5) Registrar/Senior Resident and (6) Junior Resident.

5. METHOD OF APPOINTMENT:

Appointment to different administrative and teaching posts of the service after commencement of these rules shall be made by the following methods:

a. Appointment to different administrative and teaching posts of the Tripura Medical Education (Administrative & Faculty) Service shall be made as detailed in SCHEDULE-II.

b. The basic teachers who have come from THS, within the period (2005-2010) and working under AGMC may be appointed as basic Teacher after getting approval from the appropriate authorities. At the time of appointment he/she will have to fill up an option form in Schedule-II and Annexure-I.

6. DIRECT RECRUITMENT:

Direct recruitment to different administrative and teaching posts of the service shall be made on the recommendation of the Commission and the Commission after necessary selection shall forward to the State Government a list arranged in order of merit of the candidates, who have qualified by first standard as the commission may determine for selection."

8. The eligibility and qualifications are prescribed in the Schedule-II as per Rule-8 which, in turn, are governed by the Minimum Qualification for Teachers in Medical Institutions Regulations, 1998. The petitioner had earlier approached this Court in WP(C) No.434 of 2021 after 4 years of the regularization of respondent No.5 in the year 2017 vide notification dated 12.09.2017 (Annexure-5 to the writ petition). The name of respondent No.5 appears at Sl. No.17 as absorbed to the post of Basic Teacher (Tutor)/Senior

Resident/Registrar in Tripura Medical Education Services in the discipline of Orthopaedics under UR category. The learned Writ Court on the previous occasion directed the respondents to take a decision on the representation of the petitioner. The operative portion of the order is also extracted hereunder:

"I have heard Mr. D. Bhattacharjee, learned G.A. assisted by Mr. P. Saha, learned counsel appearing for the respondents-State. With the consent of the learned counsel appearing for the parties to the lis, this Court is inclined to pass the following directions:

(a) The respondents shall consider the case of regularization of the petitioner in the post of Registrar of AGMC & GBP Hospital keeping in mind that the services of some of his juniors, though they are less qualified have been considered for regularization.

(b) The charge/special allowance may be considered for payment, in view of the order as manifested in the order dated 16.02.2012 [*Annexure-2 to the writ petition*] issued in the name of the Governor of Tripura; and

(c) The entire exercise shall be completed within a period of 3(three) months from the date of receipt of the copy of this order.

With the aforesaid directions and observations, the present writ petition stands allowed and disposed. Needless to say, that the petitioner shall be at liberty to approach before the appropriate forum, if he is aggrieved by any decision/action of the Government."

9. Thereafter, the representation of the petitioner has been considered by the competent authority and has been rejected, *inter alia*, taking into consideration a number of grounds. The order of the competent authority is also extracted hereunder as it indicates the reasons which have weighed upon the respondent-authority to reject the application of the petitioner seeking regularization:

ORDER

WHEREAS, Dr. Sukomal Sarkar, M.O., Gr-III of Tripura Health Services, Government of Tripura filed a Writ Petition bearing No. W.P.(C) 434 of 2021 before the Hon'ble High Court of Tripura regarding regularization in the post of Registrar, Department of Orthopaedics, AGMC & GBP Hospital, Agartala.

AND

WHEREAS, As Hon'ble High Court of Tripura vide Judgment and Order dated 02-07-2021 disposed of the case with direction that "*the respondents shall consider the case of regularization of the petitioner in the post of Registrar of AGMC & GBP Hospital keeping in the mind that the services of some of his juniors, though they are less qualified have been considered for regularization*" and "*the charge/special allowance may be considered for payment in view of the order as manifested in the Order dated 16.02.2012 [Annexure-2 to the writ petition] issued in the name of the*

Governor of Tripura" and "the entire exercise shall be completed within a period of 3(three) months from the date of receipt of the copy of this order".

AND

WHEREAS, the petitioner submitted his representation on 19-07-2021 which has been received by this Department on 19-07-2021.

AND

WHEREAS, it is to be mentioned here that regularization of service of an employee is applicable in cases of Ad-hoc/Temporary appointment. But the petitioner in this Case is already a regular employee under THS (Tripura Health Service) Cadre. So, Regularization of service does not arise in this case.

AND

WHEREAS, it is evident from the final seniority list of Medical officers (M.O) of Tripura Health Service (THS) of 2009 Vide No.F.3(183)-HFW/2001(Vol-I) dated 11-11-2009 that the petitioner was junior to Dr. Dipen Roy, Seniority Position of Dr. Dipen Roy was at serial No.279 & the Petitioner's seniority position was at serial no.307. That means the petitioner was junior to Dr. Dipen Roy. Moreover, Dr. Dipen Roy has completed Diploma in Orthopaedics in the year 2001 whereas Dr. Sukomal Sarkar was only MBBS up to the year 2011. The petitioner completed M.S. in Orthopaedics in 2011. One more candidate namely Dr. Swarajit Debbarma completed diploma in Orthopaedics in the year of 1993. Therefore, it is evident that the petitioner was less qualified than both Dr. Roy & Dr. Debbarma. So, after examination it is clear that the claim of the petitioner that he was senior & more qualified than others who were absorbed in the Department of Orthopaedics, AGMC & GBP Hospital, is not a fact.

AND

WHEREAS, it is claimed by the petitioner that some of his junior, though they are less qualified, have been considered for regularization. In reference to the petitioner's claim, it is stated that the matter of regularization of ad-hoc Service of Dr. Anupam Debnath who is junior to Dr. Sukomal Sarkar is not similar in nature with the petitioner as Dr. Debnath was already on Ad-hoc service under Tripura Medical Education Service (TMES) against Direct quota (e.g., not from Tripura Health Service). Whereas, the petitioner is a regular employee under Tripura Health Service (THS) cadre. So, the ground of the petitioner is not similarly situated with others whose service were regularized in the post of Registrar in this case.

AND

WHEREAS, as per the Rule 5(b) of TMES, 2015, "The basic teachers who have come from THS, within the period of (2005-2010) and working under AGMC may be appointed as basic teacher after getting approval from the appropriate authorities. At the time of appointment he/she will have to fill up an option form in Schedule-II and Annexure-I. Dr. Sukomal Sarkar did not serve in AGMC & GBP Hospital during the period of 2005 to 2010 as per service Record Vide No.F.13(783)-HFW/93/1360 dated 29-07-2021. In this regard, a notification was issued from the office of the Director of Medical Education dated 09-10-2015 as per reference No.F.11(1)-DME/ET/2015/2517 in which exercise for option entering into TMES as Basic teacher (Registrar/Tutor) from THS was invited & last date of which was 31-10-2015. The petitioner did not exercise the option for entering under TMES from THS. So, the Petitioner is not similarly situated with others who were absorbed as Basic Teacher (Registrar) in Department of Orthopaedic, AGMC & GBP Hospital. Whereas, Dr. Dipen Roy & Dr. Swarajit Debbarma exercised the said option and submitted the same within the stipulated time period.

AND

WHEREAS, the time period for entering into TMES from THS was further extended up to September 2015. Subsequently, in the First

Amendment of TMES Rules 2016 Vide No. F.8(108)-DME/ESTT/2013(Sub-III)/2858 Dated 14-09-2016 the provision under Rule 5(b) was substituted by "The Teaching faculty engaged in AGMC from different grades of THS within the period (2005 to September, 2015) and still working under AGMC may be appointed as Basic Teacher after getting approval from the competent authority. At the time of appointment, he/she shall have to fill up an option form in schedule-II (A) and Annexure-I". In this regard, again, a notification was issued from the office of the Director of Medical Education, dated 11-05-2017 Vide No. F.8(108)-DME/ESTT/2013/Sub-IV in which filling up of "Option Form" for entering into TMES as Basic teacher (Registrar/Tutor) from THS was invited & last date of which was within 7(Seven) days from the date of issuance of the order. But again, the petitioner did not submit the Option Form for absorption under TMES from THS.

AND

WHEREAS, it is evident from the service record provided by the Directorate of Health Services (DHS) that Dr. Sukomal Sarkar performed duties in AGMC & GBP Hospital on deputation basis from 28-12-2010 to 25-09-2012 as a Medical Officer. Though, he was assigned as full time Registrar in department of Orthopaedics along with 09 other Medical Officers but, the petitioner did not perform duties in the said designation in the Department of Orthopaedics, AGMC & GBP Hospital, as he was deputed/Transferred to Tripura Sundari Hospital & Gomati District Hospital, Udaipur, Gomati Tripura from 26-09-2012 to 21-09-2016. So, the claim of the petitioner that he worked as a full time Registrar in department of Orthopaedics in AGMC & GBP Hospital since 2012 is not a factual statement. Then, in the year of 2017 one Govt. Order was notified, wherein, it was clearly stated that the Medical Officers of Tripura Health Service (THS) having Post Graduate Degree & below 40 years of age will be eligible for Senior Resident/Tutor in AGMC, Agartala for 1 year, and will only be entitled for salary & allowances as they were drawing while in THS before joining as Senior Resident/Tutor and will not be entitled for any Teaching/Special Allowances nor any TA/DA and they will be automatically released after completion of 1 year. So, payment of teaching allowance is not applicable in this case.

AND

WHEREAS, after examination of all facts & aspects it appears that the ground of the petitioner is not equally/similarly situated to others who have been regularized earlier.

AND

NOW, therefore, after consideration of all aspect, the competent authority is pleased to order that representation submitted by the petitioner regarding regularization of the petitioner in the post of Registrar of AGMC & GBP Hospital cannot be acceded to.

Accordingly, the representation is disposed.

This is issued with the approval of the Government of Tripura, Health & Family welfare Department vide U.O.No.2438 Dated 27/09/2021."

10. Apart from other grounds which have been referred to in the reasoned order, it is apparent that the petitioner had not exercised his option to be absorbed in Tripura Medical Education Service in terms of Rule 5(b) of the Rules of 2015 on both the occasions. At the first instance, the Director of Medical Education had vide notification dated 09-10-2015 asked the interested

Medical Officers of Tripura Health Service to exercise their option for entering into Tripura Medical Education Service as Basic Teacher (Registrar/Tutor) from Tripura Health Service, the last date of which was 31.10.2015. Thereafter, the Tripura Medical Education (Administrative & Faculty) Service Conditions Rules, 2015 underwent its First Amendment and was notified on 14.09.2016 whereunder Rule 5(b) was substituted in the following manner:

"The Teaching faculty engaged in AGMC from different grades of THS within the period (2005 to September, 2015) and still working under AGMC may be appointed as Basic Teacher after getting approval from the competent authority. At the time of appointment, he/she shall have to fill up an option form in schedule-II (A) and Annexure-I"

11. Pursuant to this first amendment, a notification was issued by the Director of Medical Education dated 11.05.2017 in which option was invited from Medical Officers of the Tripura Health Service for entering into the Tripura Medical Education Service as Basic teacher (Registrar/Tutor) from Tripura Health Service within 7(seven) days of the date of issuance of the order but again the petitioner did not submit the option form for absorption under Tripura Medical Education Service from Tripura Health Service. The first amendment is annexed at Annexure-A/2, Page-126 of the counter affidavit of respondent No.5.

12. Exercise of option, therefore, was a mandatory condition for being absorbed in the Tripura Medical Education Service. The contention of the petitioner that he had already been absorbed in Tripura Medical Education Service by virtue of the notification in the name of the Governor, Tripura dated 16.02.2012 (Annexure-2 to the writ petition) does not merit acceptance as on that date the Tripura Medical Education Service had not been constituted. The

Tripura Medical Education Service was constituted for the first time by virtue of the notification dated 04.08.2015 (Annexure-A/1 to the counter affidavit of respondent No.5). Prior to that, incumbents of the Tripura Health Service were engaged in different capacities including that of Full time Registrar/Tutor in the Department of Orthopaedics of the AGMC & GBP Hospital, Agartala. Thereafter, after issuance of notification dated 16.02.2012 (Annexure-2), petitioner was sent on deputation by order dated 24.09.2012 to Tripura Sundari District Hospital, Udaipur, Gomati District where he remained till 21.09.2016. In any view of the matter, the petitioner having not exercised his option to join Tripura Medical Education Service in terms of Rule 5(b) of the Rules of 2015 as amended by the First Amendment in the year 2016, the grievance of the petitioner that he has not been regularized in Tripura Medical Education Service is not tenable in law and on facts. The competent authority while passing the reasoned order has specifically taken note of this fact that petitioner did not submit his option for being absorbed in Tripura Medical Education Service in terms of the Rules of 2015 as amended. It also takes into note that the petitioner though was notified as full time Registrar in the Department of Orthopaedics but he did not perform duties in the said designation in the Department of Orthopaedics but was transferred/deputed to Tripura Sundari Hospital & Gomati District Hospital, Udaipur from 26.09.2012 to 21.09.2016. Therefore, the claim of the petitioner that he worked as a full time Registrar in the Department of Orthopaedics in AGMC & GBP Hospital since 2012 was not factually correct.

13. After having given anxious consideration to the pleadings and submissions of the rival parties and after going through the documents placed from record and on perusal of the reasoned order dated 04.10.2021 (Annexure-10 to the writ petition), this Court is of the considered view that the petitioner having failed to exercise option to join the Tripura Medical Education Service as per the statutory rules, i.e. Rule 5(b) of the Rules of 2015 framed by the State of Tripura could not stake a legal claim for being absorbed in the Tripura Medical Education Service. The petitioner having failed to exercise option, therefore, cannot seek the reliefs, prayed for, in the writ petition.

14. Learned senior counsel for the petitioner at the end has submitted that since the petitioner has performed knee replacement surgery for the first time in the State of Tripura successfully in AGMC & GBP Hospital, Agartala in the year 2023, as such the respondent-authorities should consider him for being engaged/absorbed in the Tripura Medical Education Service for providing better and specialized healthcare services to the inhabitants of the State. In the present writ petition considering the nature of the challenge, this Court is not required to make any comments on such a plea. However, it is up to the competent authority under the Tripura Medical Education Department to take into consideration such plea if raised by the petitioner. Writ petition is, therefore, dismissed.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ