

**18.04.2024**  
Item No. 181  
Ct. No. 238  
AKG

**WPA 642 of 2024**  
**Rameswar Halder**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Lutful Haque,  
Mr. Golam Karim Chowdhury  
...for the Petitioner  
Mr. Gaurav Das  
...for the State

The petitioner is presently working as a Pharmacist, Grade-III at Rural Hospital in Hooghly. He ranked 775 in “Joint Entrance for Lateral Entry” examination – 2023 conducted by the West Bengal Joint Entrance Examinations Board for B. Pharm course. Accordingly, he secured a seat at Pandaveswar School of Education, Paschim Bardhaman, respondent No.8, in the counselling. His prayer for study leave, however, was rejected by a communication from the Deputy Director of Health Services (Administration), West Bengal dated November 1, 2023.

The relevant part of the said communication is quoted below:-

“I am directed to inform you that your application dated 14.09.23, for Study Leave to pursue B. Pharm. Course has been rejected by the competent authority on the ground of:-

1. The B. Pharm. Degree is an Essential Qualification for the Recruitment

in the post of Pharmacist of this department, as per extant Recruitment Rules for the post. Thus the proposed course of study, i.e. B. Pharm, shall not be of definite advantage from the point of view of public interest, as per clause, (3)(i) of Appendix No.5 of WBSR Part I.

2. This will cause cadre or service difficulties owing to your absence on leave, as per clause, (6) of Appendix No.5 of WBSR Part I.”

The order dated November 1, 2023, was set aside by this Court with a direction upon the Principal Secretary, West Bengal Health Services, Department of Health and Family Welfare, to consider the prayer for study leave of the petitioner within a period of one week from the date of communication of the order.

The Principal Secretary also rejected the prayer of the petitioner by a reasoned order, which was communicated to the petitioner on January 4, 2024. In this writ petition, the said communication has been impugned.

The relevant part of the order is quoted below:

**“And, whereas,** the duties and responsibilities of all Pharmacist are same irrespective of his/her educational qualification be it B. Pharm or D. Pharm;

**And, whereas,** there is no additional Promotional or Financial benefit in the Pharmacist Cadre having B. Pharm. Qualification;

**And, whereas,** it appears that the proposed course of study, i.e. B. Pharm., availing study leave shall not be of **definite advantage** either from the department’s

point of view or from public interest point of view;

**And, whereas,** there is a shortage of Pharmacist in different health facilities under this Department of Health & Family Welfare, and if study leave is allowed to pursue B. Pharm. Course (3yrs. course), the petitioner will remain absent from duties for 3 years, which will definitely cause hamper to the smooth functioning of the concerned health facility catering health services to mammoth population;

**And, whereas,** there is no precedence that a Pharmacist has ever been allowed study leave for pursuing B. Pharm. Course;

**Now, therefore,** the prayer of the petitioner is considered, adhering to the Government policies, prevalent rules and natural justice but the authority is unable to allow the prayer of the petitioner in the interest of the public service.

Thus the prayer of the petitioner stands rejected.”

I am of the view when the West Bengal Service Rules Part-I provides for study leave, the authorities cannot decline study leave on the ground that there is no precedence that a Pharmacist has ever been allowed study leave for pursuing B. Pharm course.

It also cannot be said that enhancement of a qualification relevant to the functions performed or the duties discharged by an employee shall not be of definite advantage either from department's point of view or from the public interest point of view. An employee with his enhanced knowledge can definitely

discharge his duties and responsibilities in a better and more effective way.

It is also a choice of an employee to pursue a higher course of study even if the enhanced qualification does not entail any additional service benefit to him.

I, however, find some substance in the stand disclosed by the Principal Secretary, that absence of a pharmacist for three years may hamper the functioning of the health facility, though the petitioner suggests that apart from the petitioner, there are at least two more pharmacists working at the Rural Hospital where the petitioner is presently working.

Learned advocate appearing for the petitioner fairly admits that in view of the number of private colleges established in the recent past, it is much easier to secure admission in B. Pharm course.

Grant of study leave with pay may encourage the Pharmacists attached to the State hospitals to acquire the higher qualifications without rendering any service for three years, resulting huge shortage of qualified Pharmacists in the hospitals.

It has been submitted by the learned advocate appearing for the petitioner that the petitioner cannot continue with his study based on his admission in the year 2023 at respondent no.8 since the academic

session 2023-2024 is almost completed by this time. Therefore, the petitioner needs to secure a fresh admission.

Noticing the enthusiasm of the petitioner to pursue the B. Pharm course, as a special case, I dispose of this writ petition with a direction that in the event the petitioner secures admission in B. Pharm course for the academic session commencing from 2024-2025, he will be granted leave with the following conditions.

The respondents shall grant study leave to the petitioner with pay for a period of one and half years. For the remaining one and half years, the petitioner shall be granted leave without pay against any appropriate leave available to him.

It is clarified that if the petitioner could not complete the B. Pharm course within three years, he may apply for additional leave period and the same shall also be treated as leave without pay.

This order shall not create a precedence.

Accordingly, the order passed by the Principal Secretary, Department of Health & Family Welfare, West Bengal, as communicated to the petitioner on January 4, 2024, is set aside.

**WPA 642 of 2024** is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**(Kausik Chanda, J.)**