



2026:DHC:108-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 07.01.2026

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LPA 800/2025 & CM APPL. 82745/2025, CM APPL. 82746/2025

DR. LAKSHAY BERIWAL

.....Appellant

Through: Mr. Ankur Chibber, Mr. Avadh
Bihari Kaushik, Ms. Saloni Mahajan,
Mr. Prateek Goyal, sMr. Rishabh and
Mr. Anshuman, Advocates.

versus

GURU TEG BAHADUR HOSPITAL & ORS.

.....Respondents

Through: Ms. Avnish Ahlawat, SC and Mr.
N.K Singh, Ms. Aliza Alam,
Advocates for R-1 and 2.
Mr. Pushp Raj Yadav, Legal Assistant
R-1.
Mr. Anand Varma and Mr. Ayush
Gupta, Advocates for R-3.
Mr. Sudarshan Rajan, Mr. Hitan Bajaj
and Mr. Sambhav Sharma, Advocates
for R-4
Mr. Shiven Varma and Mr. Dhruv
Malik, Advocates for R-5.

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****JUDGMENT****TEJAS KARIA, J. (ORAL)**

1. The present Appeal has been filed challenging the Judgement dated 24.12.2025 (“**Impugned Judgement**”) passed by the learned Single Judge in W.P. (C) 19730/2025 (“**Writ Petition**”), whereby the Appellant’s Writ Petition has been dismissed on the ground that administrative or policy

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decision taken by Respondent No. 1 - Hospital in granting No Objection Certificate (“**NOC**”) to Respondent No. 5 for pursuing higher studies under ‘Sponsored Quota’ and rejecting the similar NOC to the Appellant on the ground of *inter se* seniority between the Appellant and Respondent No. 5 is a relevant factor for the issuance of NOC.

2. The learned Counsel for the Appellant submitted that the Appellant secured the All India Rank of 4358 as compared to Respondent No. 5, who has secured Rank of 10032 in the All India Entrance Test conducted for selecting the candidates for pursuing their Post Graduate (“**PG**”) courses under the sponsored category. It was submitted that the Appellant joined as a Medical Officer at Directorate General of Health Services, Government of NCT of Delhi and after serving for about one and half year, the Appellant was transferred to Respondent No. 1 - Hospital in April, 2022. After completion of five years in service on 17.09.2025, the Appellant became eligible for Study Leave as per Central Civil Services (Leave) Rules, 1972 (“**Rules**”). The Appellant applied for permission of Respondent No. 1 - Hospital to appear for All India Entrance Test for PG courses conducted by All India Institute of Medical Sciences (“**AIIMS**”), New Delhi. On 30.10.2025, Respondent No. 1- Hospital issued the Sponsorship Certificate in favour of the Appellant.

3. Having secured All India Rank of 4358, in the counselling / seat allocation, the Appellant was allocated seat in Nuclear Medicine at Postgraduate Institute of Medical Education and Research (“**PGIMER**”), Chandigarh under the sponsored category and an offer letter dated 18.12.2025 was issued to the Appellant to join PGIMER, Chandigarh for pursuing his post-graduation in Nuclear Medicine on the sponsored seat category. The Appellant requested Respondent No. 1 - Hospital to issue LPA 800/2025

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relieving orders and NOC and to Respondent No. 2 for grant of Study Leave. However, Respondent No. 1 - Hospital *vide* Office Memorandum dated 19.12.2025 (“**Impugned OM**”) rejected the request for grant of NOC to the Appellant on the ground that in terms of the prevalent practice, the senior doctor in Respondent No. 1 - Hospital has been recommended for grant of Study Leave / NOC for pursuing PG course since only three medical officers are allowed to join PG courses at a given time in terms of Office Memorandum dated 02.11.2012 (“**2012 OM**”) issued by the Ministry of Health and Family Welfare, Government of India. As there were already two Medical Officers pursuing the higher studies, Respondent No. 5 was granted NOC being senior to the Appellant and, consequently, the Appellant was denied the Study Leave as well as NOC by Respondent No. 1 - Hospital.

4. Being aggrieved by the Impugned OM, the Appellant submitted a Representation dated 19.12.2025 to Respondent No. 2 requesting that his application for Study Leave be accepted considering the meritorious rank secured by the Appellant in the examination. The Appellant also preferred the Writ Petition challenging the Impugned OM on 23.12.2025. *Vide* Impugned Judgment, the Writ Petition was dismissed by the learned Single Judge. Hence, the Appellant has filed the present Appeal.

5. The main grievance of the Appellant is that the Impugned OM solely considered the seniority of Respondent No. 5 as basis for granting Study Leave / NOC overlooking the merits of the Appellant having higher All India Rank as compared to Respondent No. 5.

6. The learned Counsel for the Appellant relied upon 2012 OM issued by the Ministry of Health and Family Welfare, Government of India, relevant extract of which is as under:

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“6. Study leave may be granted to a CHS officer with due regard to the exigency of public service to enable him/her to undergo, in or out of India, a special course of study consisting of higher studies or specialized training in a professional or technical subject having a direct and close connection with the sphere of his/her duty.

7. Study leave may be granted for a course of training or study tour in which a Medical Officer 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 CHS officer.

8. For the purpose of studies connected with the framework or background of public administration subject to the condition that the particular study or study tour should be approved by the authority competent to grant leave, the CHS officer should be required to submit on return, a full report on the work done by him/her while on study leave and for studies which may not be closely or directly connected with the work of CHS officer, but which are capable of widening his/her mind in a manner likely to improve his/her abilities as a civil servant and to equip him/her better to collaborate with those employed in other branches of public service.

9. It should be certified by the competent authority that the proposed course of study or training shall be of definite advantage from the point of view of public interest and should be for prosecution of studies in subjects of other than academic or literary subject.”

7. It was submitted that as per 2012 OM, no criteria has been fixed for selection of the candidate for grant of Study Leave to pursue PG course and such course should be of definite advantage from the point view of public interest. Hence, seniority cannot be the sole basis for inter se selection of the candidates.

8. The learned Counsel for the Appellant also relied upon the Office Memorandum dated 27.10.2023 issued by Respondent No. 2 providing the Standard Operating Procedure (“SOP”) for processing of cases related to grant of leave for higher studies. It was submitted that even in the SOP, no criteria has been provided for selection of the medical officers, who have

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qualified and been selected to pursue higher studies. Accordingly, in the absence of any specific criteria having been provided in the 2012 OM and SOP, the Impugned OM relying upon the prevalent practice of giving preference to senior doctor and disregarding the merits was arbitrary. The Impugned OM ought to have considered the public interest and the merits instead of seniority for considering the issuance of NOC between the Appellant and Respondent No. 5.

9. The learned Counsel for the Appellant submitted that the Impugned Judgement has wrongly held that the criterion of seniority has a reasonable nexus with the object of Study Leave without giving any reason in support thereof. The Impugned Judgment has held that the Impugned OM is neither arbitrary nor irrational, which has caused irreparable prejudice to the Appellant.

10. It was submitted by the learned Counsel for the Appellant that it is a settled law that a discretion has to be exercised fairly, judiciously and in transparent manner by the authority without any arbitrariness or irrationality when there is no guidance for exercise of such discretion either in 2012 OM or the SOP. Accordingly, the Impugned Judgement requires interference in this Appeal.

11. The learned Counsel for the Appellant has relied upon the decision of the Supreme Court in *Sudhir N. and others v. State of Kerala and others* (2015) 6 SCC 685, which held that *inter se* merit amongst candidates belonging to any given category alone can be the basis of admission. It was held that *inter se* merit cannot be overlooked only to promote seniority. The relevant extract of the judgment cited is as under:

“24. It is in the light of the above pronouncements futile to argue that the impugned legislation can hold the field even when it is in



clear breach of the Medical Council of India's Regulations. The High Court was, in our opinion, right in holding that inasmuch as the provisions of Section 5(4) of the impugned enactment provides a basis for selection of candidates different from the one stipulated by the MCI Regulations it was beyond the legislative competence of the State Legislature. Having said that, the High Court adopted a reconciliatory approach when it directed that seniority of the in-service candidates will continue to play a role provided the candidates concerned have appeared in the common entrance test and secured the minimum percentage of marks stipulated by the Regulations. The High Court was, in our opinion, not correct in making that declaration. That is because, even when in Gopal D. Tirthani case [(2003) 7 SCC 83 : 2 SCEC 301] this Court has allowed in-service candidates to be treated as a separate channel for admission to postgraduate course within that category also admission can be granted only on the basis of merit. A meritorious in-service candidate cannot be denied admission only because he has an eligible senior above him though lower in merit. It is now fairly well settled that merit and merit alone can be the basis of admission among candidates belonging to any given category. In-service candidates belong to one category. Their inter se merit cannot be overlooked only to promote seniority which has no place in the scheme of the MCI Regulations. That does not mean that merit based admissions to in-service candidates, cannot take into account the service rendered by such candidates in rural areas. Weightage for such service is permissible while determining the merit of the candidates in terms of the third proviso to Regulation 9 (supra). Suffice it to say that Regulation 9 remains as the only effective and permissible basis for granting admission to in-service candidates, provisions of Section 5(4) of the impugned enactment notwithstanding. That being so, admissions can and ought to be made only on the basis of inter se merit of the candidates determined in terms of the said principle which gives no weightage to seniority simpliciter.”

12. The learned Counsel for the Appellant has submitted that the selection between the Appellant and Respondent No. 5 ought to have been on the basis of merit and not only on the seniority. Accordingly, the Impugned Judgement deserves to be set aside.

13. We have heard the learned Counsel for the Appellant at length.



14. The Appellant has secured the All India Rank of 4358 in the entrance test conducted by the AIIMS, Delhi and also secured a seat for MD in Nuclear Medicine at PGIMER, Chandigarh under the sponsored category. However, Respondent No. 1 - Hospital has refused the grant of Study Leave / NOC to the Appellant only on the ground that at a given time, only three Medical Officers are permitted to pursue higher studies and as two Medical Officers were already pursuing higher studies, there was vacancy for only one Medical Officer, who can be granted Study Leave / NOC for pursuing PG course. Therefore, Respondent No. 1 - Hospital had to choose between the Appellant and Respondent No. 5.

15. The Impugned OM has made a decision on the basis of the prevailing practice of Respondent No. 1 - Hospital to select senior doctor for grant of Study Leave / NOC. Accordingly, the Appellant was denied the grant of Study Leave / NOC.

16. The grievance of the Appellant is that the criterion of seniority cannot be the sole ground on which the grant of Study Leave / NOC be decided. It was submitted that in addition to the seniority, the merits and public interest ought to have been taken into consideration by Respondent No. 1 - Hospital for selecting the Appellant instead of Respondent No. 5, especially when 2012 OM and the SOP do not provide the criteria to be followed in case of two candidates seeking the Study Leave / NOC and only one is to be allowed.

17. The Impugned Judgement has considered the grievance of the Appellant and has concluded that the Impugned OM is neither arbitrary nor unreasonable as the decision for selecting Respondent No. 5 instead of the Appellant was arrived at relying upon the prevalent practice of giving preference to the seniority of the candidates. The Impugned Judgement
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concludes that seniority can be a relevant factor for arriving at a decision and the view taken is a possible one. The Impugned Judgement holds that while dealing with the challenge to the policy decision, the power of judicial review must be exercised only if the policy decision is contrary to law or arbitrary and, therefore, the Impugned OM did not suffer from any legal or factual error much less perversity. Accordingly, the Writ Petition was dismissed.

18. It is a settled law that the Court shall not sit as an Appellate Authority over the administrative decision and only in exceptional circumstances; the interference is to be made in the Writ jurisdiction as reiterated in the Impugned Judgement.

19. The Impugned Judgement considers the contention of the Appellant that merit should be the basis for sanctioning the Study Leave and rejected the said submission on the basis that the merit in the entrance test is for allocation of seat and nature of course to be offered to the candidate and not for the purpose of solving *inter se* issue between the two candidates of the same institution with regard to sponsorship and grant of Study Leave / NOC. For the same reason, the decision in ***Sudhir N.*** (*supra*), which is in relation to the *inter se* selection for admission, does not apply to the facts of the present case. This dispute is not regarding the admission in an institution, but selection of one out of two candidates, who have already been admitted, for administrative purposes as per 2012 OM, which is not under challenge by the Appellant.

20. We entirely agree with the reasons given in the Impugned Judgement, which has followed the settled principles of law on the limited scope of exercise of Writ jurisdiction in cases relating to exercise of discretion by an administrative authority, when there is no arbitrariness or perversity.

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21. The grant of Study Leave / NOC is not a matter of right that the Appellant can claim. It is entirely the discretion of Respondent No. 1 - Hospital to select one candidate out of two, when there is only one position available. In exercise of the said discretion, Respondent No. 1 - Hospital has chosen seniority as the criteria as per the prevalent practice in Respondent No. 1 - Hospital, which cannot be termed as arbitrary or capricious.

22. Upon enquiry by the Court regarding the prevalent practice as mentioned in the impugned OM, the learned Counsel for Respondent No. 1 - Hospital submitted that even previously, the selection was based on the criteria of seniority and, in fact, Respondent No. 5 was denied the Study Leave / NOC in previous year even though she had qualified for higher studies, on the ground of seniority and a preference was given to the medical officer senior to Respondent No. 5. Therefore, it was just and fair that Respondent No. 5 be given preference over the Appellant on the ground of seniority as she was earlier denied the Study Leave / NOC on the very same ground.

23. We also inquired from the learned Counsel for the Appellant that if there is any bar of age or number of attempts for pursuing higher studies in future by the Appellant, to which it was responded that there is no such restriction. Accordingly, no prejudice would be caused to the Appellant if the Appellant applies again in future similar to Respondent No. 5, who was previously denied the Study Leave / NOC and was granted preference this time.

24. Accordingly, we find no infirmity with the Impugned Judgement, which has concluded that the Impugned OM is neither arbitrary nor irrational and the view taken is a possible one.



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25. In view of the above analysis, the present Appeal is dismissed. No order as to costs.

26. In view of the above, pending applications stand disposed of.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

JANUARY 07, 2026/ 'A'