

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal (Chairman)****& The Hon'ble Mr. Subesh Kumar Das (Administrative Member)****Case No – O.A. 207 of 2020****DR. MD. SHAKIR HUSSAIN & 23 ORS. Vs The State of West Bengal & Ors.**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>1</p> <hr/> <p>24.04.2020</p>	<p>For the Applicant : Mr. R. Halдар, Advocate</p> <p>For the Respondent : Mr. G.P. Banerjee, Nos. 1 to 4 Advocate</p> <p>For the Respondent : Mr. B.P. Ray, Nos. 5 and 6 Advocate</p> <p>Let affidavit of service filed by Mr. R. Halдар, learned advocate for the applicants be kept on record.</p> <p>Let supplementary affidavit / application for inclusion of new facts and notices / circulars issued after filing of O.A. 207 of 2020, filed be kept on record.</p> <p>Pursuant to the notice served on the State respondents Mr. G.P. Banerjee, learned advocate appears on behalf of respondent nos. 1 to 4 and Mr. B.P. Ray, learned advocate appears on behalf of the respondent nos.5 and 6.</p> <p>At the very outset Mr. Banerjee raises objection regarding maintainability of the Original Application as in similar matters in W.P. 5365 (W) of 2020 with C.A.N. No. 3041 of 2020 : Dr. Manik Biswas and Others Vs. The State of West Bengal & Others and in W.P. 5367 (W) of 2020 with C.A.N. No. 3044 of 2020 : Bhaskar Mallick</p>	

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	<p>and Others Vs. The State of West Bengal & Others, filed before the learned Single Judge of the Hon'ble High Court by the applicants / doctors, who have completed MBBS courses and are presently working in different hospitals of the State of West Bengal, an order has been passed on 23rd April, 2020 and as the applicants in the present application before the Tribunal, serving under the West Bengal Health Service and/or West Bengal Public Health-cum-Administrative Service and/or West Bengal Medical Education Service under the Department of Health and Family Welfare and permanent employees of the Department of Health and Family Welfare, Government of West Bengal, as evident from paragraph 6 (iii) of the application, are similarly situated and as Hon'ble High Court has entertained writ petitions on similar cause of action, this application be dismissed. Moreover, the applicant no.24, Dr. Manik Biswas is also an applicant in the writ petition filed before the High Court.</p> <p>Mr. Halder, submits that leave may be granted to delete the name of the applicant no.24 from the array of applicants which is opposed by Mr. Banerjee and Mr. Ray. Relying on the order passed on 23rd April, 2020, it is submitted that the application before the Tribunal is partly different from the writ petitions pending before the High Court. Submission is in view of Article 323A and Article 309 of the Constitution of India since the Tribunal has the jurisdiction to entertain the application the matter may be</p>	

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	<p>taken up for hearing and interim order, as prayed for, may be passed.</p> <p>Mr. Banerjee and Mr. Ray submit that as the application before the Tribunal was affirmed on 20th March, 2020 and the applicant no. 24 had also moved the High Court, no order may be passed and the application may be dismissed.</p> <p>Heard learned advocates for the parties. It is evident from the paragraph 6 (iii) of the instant application filed before the Tribunal that the applicants are serving under the West Bengal Health Service and/or West Bengal Public Health-cum-Administrative Service and/or West Bengal Medical Education Service under the Department of Health and Family Welfare and all of them are the permanent employees of the Department of Health and Family Welfare, Government of West Bengal. The applicants are challenging the notifications dated 26th February, 2020 and 18th March, 2020 issued by the Special Secretary to the Government of West Bengal which are also under challenge in the writ petitions being W.P. 5365 (W) of 2020 and in W.P. 5367 (W) of 2020 wherein orders have been passed on 23rd April 2020, as evident from the orders passed therein copies of which have been filed before the Tribunal, we find the orders passed by the learned Single Judge covers the issues raised in this Original Application. Since the order passed by the Hon'ble High Court covers the issues raised and</p>	

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SCN.	<p>writ petitions on similar cause of action is pending before the High Court, no order can be passed on this application. Since the applicant no.24 has also moved the Hon'ble High Court, we are of the view that the Original Application is speculative in nature. Hence, for the reasons as aforesaid, the application is dismissed.</p> <p>Since for circumstances beyond control the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	