

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. 455 of 2019

DR. ANIRUDDHA GHORAI 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>5</p> <hr/> <p>03.09.2019</p>	<p>For the Applicant : Mr. M. N. Ray, Mr. G. Halder, Advocates</p> <p>For the Respondents : Mr. S. Ghosh, Advocate</p> <p>In this application the applicant, - who had joined on 11th August, 1992 as Medical Officer and now posted as Medical Officer in the Kharagpur Sub-Divisional Hospital, Paschim Medinipur, - has challenged the order dated 18th April, 2019, being annexure 'E' to the application, whereby his prayer for "voluntary retirement" has been turned down as it is "not tenable as per Sub-Rule (aaaa) of Rule 75 of WBSR Part I" and has been "directed to continue" with his duties. The relevant prayers made in this application are as under:</p> <p style="padding-left: 40px;">“(a) An order do issue thereby setting aside / quashing the Memo No. 1A – 78 – 2015 / Pt. II A 2097 Dated, Kolkata, the 18th April, 2019 whereby the prayer of the applicant has been rejected invoking the amended provision of Sub-Rule (aaaa) of</p>	

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	<p>Rule 75 of WBSR, Part-I with immediate effect as the same is a non speaking order and is a cryptic one, moreover suffers from non application of mind.</p> <p>(b) An order do issue thereby setting aside / quashing the Memo No. 1A – 78 – 2015 / Pt. II A 2097 Dated, Kolkata, the 18th April, 2019, and after setting thereby aside direct the respondent authorities to issue necessary release order in connection to prayer dated 28.12.2018 for Voluntary Retirement from Service within a stipulated time period taking into consideration the letter and spirit of Judgement dated 03.01.2017 delivered in the matter of Dr. Ashok Kumar Maiti & Others – Versus- The State of West Bengal & Others.</p> <p>(c) An order do issue thereby direct the concerned respondent authorities to forthwith disburse all retiral benefits in accordance</p>	

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	<p>with law after issuance of specific order in terms of VRS application dated 28.12.2018, within a stipulated time period.</p> <p>(d) An order do issue directing the concerned respondent authorities to forthwith issue “Release Order” in favour of your applicant without causing any further delay.</p> <p>(e) An order do issue directing the respondent authorities to accept the prayer dated 28.12.2018 for Voluntary Retirement under Rule 75 (aaa) of West Bengal Service Rules, Part-I within a stipulated time period after giving an opportunity of hearing, keeping in mind that the applicant has already attained 50 years of age and rendered more than 20 years of service at the time of coming of the amended provisions dated 07.02.2014.”</p> <p>It is submitted by Mr. M.N. Roy, learned advocate for the applicant that since the applicant had</p>	

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	<p>completed fifty years of age on 23rd August, 2013, and on the date of applying for voluntary retirement, had completed more than twenty years of service, the applicant had already accrued a right for having his application for voluntary retirement considered in view of the provision of Sub-Rule (aaa) of Rule 75 of WBSR, Part-I. Submission is that right accrued under Rule 75 (aaa) cannot be divested in the manner as has been done in the order under challenge. Moreover, the order is cryptic as it does not disclose reasons. In this regard reliance has been placed on the judgement and order passed on 22nd July, 2019 in O.A. 458 of 2019 : Dr. Partha Sanyal Vs. State of West Bengal & Others.</p> <p>Mr. S. Ghosh, learned advocate appearing on behalf of the State submits that from the judgement and order passed on 22nd July, 2019 in O.A. 458 of 2019 steps are being taken to challenge the same.</p> <p>Heard learned advocates for the parties. Perused the order under challenge. We find that it does not disclose any reason and is cryptic. Moreover, be it noted that as a right has accrued to the applicant to retire voluntarily under Sub-Rule (aaa) of Rule 75 of WBSR, Part-I for having completed fifty years of age and for completing 20 years of service, the issue does not come under the ambit of Rule 75 Sub-Rule (aaaa). Therefore,</p>	

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SCN.	<p>legally the impugned order is also not sustainable. Moreover, admittedly the issue is covered by the judgement and order passed on 22nd July, 2019 in Dr. Partha Sanyal (Supra). Therefore, the order impugned cannot be sustained and is set aside and quashed. Hence, the application is allowed. Accordingly the Additional Chief Secretary, Department of Health and Family Welfare, Government of West Bengal, Kolkata, the respondent no.1 is directed to accept the application of the applicant for voluntary retirement dated 28th December, 2018 with effect from 31st March, 2019 within twelve weeks from the date of presentation of a copy of the certified copy of this order and shall disburse pensionary benefits and other allowances, as admissible under the law, which has accrued in favour of the applicant.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	