

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 –OA 108 OF 2017

SMT. PRATIMA RANI MISRA 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 style="text-align: center;">7</p> <hr/> <p>25.09.2018</p>	<p>For the Applicant : Mr. G.P. Banerjee Advocate</p> <p>For the State Respondents: None</p> <p style="text-align: center;">In this application, the applicant, a Health Assistant (Female), attached to Telami (North) Sub-Centre, Ramchandrapur Block Primary health Centre, Egra-I Block, P.O. Chorpalia, District – Purba Medinipur has prayed for a direction upon the respondents to set aside the reasoned order dated 6th November, 2015 whereby the Director of Health Services and Ex-Officio Secretary, Health & Family Welfare Department, Government of West Bengal, had turned down the prayer for voluntary retirement as it was not in proper format and had directed her to resume duties by applying before the appropriate authority and for regularisation of period of absence, if any by the authorities. It appears that the applicant on 31st July, 2014 had issued formal notice for voluntary retirement from 1st November, 2014, as evident from page 14 of the original application. Since it was not considered, the applicant filed an application, being Original Application No. OA-235 of 2015 which after</p>	

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	<p>hearing the parties was disposed of on 7th May, 2015 directing as under :</p> <p style="text-align: center;">“In the facts and circumstances above, we direct the Director of Health Services, Govt. of West Bengal to take a decision on the issue without delay by way of passing a reasoned and speaking order as per rules within a period of 2 months from the date of communication of this order and convey the decision to the Petitioner within a period of 3 weeks thereafter.</p> <p style="text-align: center;">With the above direction, we dispose of this application.”</p> <p>Pursuant to the said order, the impugned order was passed by the Director of Health Services as evident from page 19 of the original application.</p> <p>Though notice was served on the respondents and directions were issued for filing of affidavits, no affidavits have been filed. None appears on behalf of the respondents.</p> <p>It is submitted by Mr. G.P. Banerjee, learned advocate for the applicant that in view of the</p>	

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	<p>memorandum dated 20th August, 1981, relating to the scheme of voluntary retirement of government employees on completion of twenty years of qualifying service, if a notice for voluntary retirement is given by the government employee it requires acceptance by the appointing authority and it is presumed to be effective in terms of the notice unless the competent authority issues order to the contrary before the expiry of notice. Since the order under challenge is not in consonance with the memorandum, appropriate order may be passed setting aside the impugned order dated 6th November, 2015 and also directing the respondents to accept her prayer for voluntary retirement.</p> <p style="text-align: center;">Heard Mr. Banerjee. The relevant portion of the impugned order dated 6th November, 2015 is as under :</p> <p style="text-align: center;">“Accordingly, the applicant has been intimated vide Memo No. HNG / MPHW / Corr. / Resig. / V.R. / 2015 / 1170 / 1(2) dated 29.10.2015 that her prayer dated 31.07.2014 for voluntary retirement was not in proper form and accordingly instructed her to resume duty first by applying to the appropriate authority. After resumption of duty and regularization</p>	

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	<p>of absence period, if any, she may apply for Voluntary Retirement from Govt. Service with notice as per Finance Department memorandum No. 2660 –F dated 20.08.1981.</p> <p style="text-align: center;">ORDER</p> <p>Now, in compliance with the order of the Hon'ble West Bengal Administrative Tribunal dated 07.05.2015 the local authority i.e. the Chief Medical Officer of Health, Purba Medinipur and the Block Medical Officer of Health, Ramchandrapur Block Primary Health Centre, Egra-I Block, P.O. Chorpalia, District – Purba Medinipur may be further requested to allow her to join and regularize the unauthorized absence period, if any and thus we are able to take necessary action further regarding her voluntary retirement.</p> <p style="text-align: center;">Let the order be communicated to all concerned.”</p> <p style="text-align: center;">This order was passed pursuant to the directions</p>	

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SCN.	<p>contained in the order dated 7th May, 2015 passed in O.A. 235 of 2015 as already noted.</p> <p>It appears that while passing the order with regard to the prayer for voluntary retirement of the applicant, the Director of Health Services, Government of West Bengal, respondent No. 2 did not take into consideration the memorandum dated 20th August, 1981, particularly paragraph 6 thereof. Further though it has been mentioned in the order that it was not in proper format, it has not been mentioned in the impugned order where the lacuna lies. Therefore, the order under challenge cannot be sustained and is, thus, set aside and quashed. The application is allowed. Accordingly, the Director of Health Services, Government of West Bengal, respondent No. 2 is directed to consider the matter afresh on the application filed and shall pass reasoned order to be communicated to the parties within four weeks from the date of presentation of a copy of this order, after giving an opportunity of hearing and after considering the memorandum dated 20th August, 1981, particularly paragraph 6 thereof.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	