

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 455 OF 2018

DR. ANKAN BANDYOPADHYAY 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;">3</p> <hr/> <p>24.07.2018</p>	<p>For the Applicant : Mr. S. Ghosh Mr. M.N. Ray Mr. A. Mitra Learned Advocate</p> <p>For the Respondents: None</p> <p style="text-align: center;">Affidavit of service filed be kept on record. Despite service of notice none appears on behalf of the respondents.</p> <p style="text-align: center;">In this application the applicant has prayed for a direction upon the respondents particularly on the Principal Secretary, Health & Family Welfare Department, Government of West Bengal, Kolkata, respondent No. 1 to accept the resignation letter dated 6th February, 2018. The facts are, in short, as follows :</p> <p style="text-align: center;">On 24th January, 2011 the applicant joined West Bengal Medical Education Service. The State authorities sponsored the applicant for pursuing a course of DM Pulmonary & Critical Care Medicine under Post Graduate Institute of Medical Education & Research (PGIMER), Chandigarh, from 7th July, 2014 to 30th June, 2017. In this</p>	

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regard he had furnished a bond of Rs. 10,00,000/- (Rupees ten lakhs) or in the alternative he undertook to render services upto next five years under the Government of West Bengal, Health and Family Welfare Department. It further appears that in order to improve his career he applied online for fellowship in Interventional Pulmonology and Thoracic Oncology at Rajiv Gandhi Cancer Institute, New Delhi and was subsequently selected. He required a No Objection Certificate (for short 'NOC') to pursue this specialised study by 28th December, 2017. The date was subsequently extended. According to him without obtaining, he might not have been eligible to undergo such fellowship. So, he had applied for study leave for one year foregoing his salary and for grant of NOC. According to him as evident from the representation dated 6th February, 2018 request was made to suspend the bond period of five years for one year from the date of joining his fellowship course. He undertook to serve the West Bengal Government for the said bond period of five years immediately after completion of fellowship course. However, as NOC was not granted the applicant filed an original application, being No. OA 4 of 2018, before this Tribunal and the Tribunal was pleased to pass an order, the relevant portion of the same is as under :

“.....However, in taking a decision on this issue, the Government as a model employer must be objective and fair with due regard to the provisions of

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the extant rules, past practices in similar cases as well as public interest. The Tribunal, therefore, feels that it would be proper to dispose the matter by directing the Respondents, in particular Respondent No. 2, namely, the Director of medical Education & Ex-Officio Secretary, Health and Family Welfare Department, Government of West Bengal to consider the representation of the Applicant dated 15-12-2017 and 29-12-2017 and take a decision within two weeks from the date of receipt of this order. Before taking the decision as directed, the applicant should be given an opportunity of being heard. A copy of the decision so taken shall be communicated to the applicant within three days thereafter.

The O.A. is thus disposed of.
No costs.....”

According to the applicant since the directions contained in the order dated 10th January 2018 were not complied with a contempt application was filed. It was subsequently dropped. According to him the present application is for non-consideration of the representation

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SCN.	<p>dated 6th February, 2018 seeking resignation from service with an undertaking to refund the bond of Rs. 10,00,000/- (Rupees ten lakhs).</p> <p>On our query it is submitted by Mr. Ghosh, learned Advocate for the applicant on instruction that from 1st January, 2018 the applicant is not performing his duties.</p> <p>Having heard the learned advocate for the applicant and considering the facts and circumstances of the case, the original application is disposed of by directing the Principal Secretary, Health and Family Welfare Department, Government of West Bengal, Kolkata, the respondent No. 1 to dispose of the representation dated 6th January, 2018 being Annexure "B" to the original application by passing a reasoned order to be communicated to the parties within four weeks from the date of presenting a copy of this order after giving an opportunity of hearing and after verifying the records and after considering the terms and conditions under which the applicant was appointed.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	