

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 794 OF 2016

DR. BINAYAK ROY 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>9 14.08.2018</p>	<p>For the Applicant : Mr. G.P. Banerjee Mr. Arunabha Som Advocate</p> <p>For the Respondents: Mr. S. Ghosh Advocate</p> <p>At the very outset it is submitted by Mr. G.P. Banerjee, learned advocate appearing on behalf of the applicant, that though the matter has appeared as “To Be Mentioned”, however, as it relates to the voluntary retirement of the applicant, it may be taken up for hearing today which Mr. S. Ghosh, learned advocate for the State respondent, in his usual fairness, does not oppose.</p> <p>In this application the applicant, a Medical Officer, who had joined on 9th October 1986 under the Health Service of Government of West Bengal has prayed for a direction upon the State respondents to accept his prayer for voluntary retirement after setting aside the impugned order dated 13th February, 2014 passed by the O.S.D. and Ex-Officio Joint Secretary (MA), Government of West Bengal. Submission is as the applicant had completed twenty years of service on 19th November,</p>	

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	<p>2006 and has completed fifty years of age on 19th November, 2008 and the issue is covered by judgements passed on 10th May, 2018 in O.A. 487 of 2017 (Mir Samser Zaman vs. The State of West Bengal & Ors.) and judgement of the Hon'ble High Court in W.P.S.T. No. 26 of 2015 (State of West Bengal and Ors. vs. Dr. Sraban Kumar Ghosh) passed on 2nd February, 2015 and as the S.L.P. filed by the authorities before the Hon'ble Supreme Court was dismissed on 20th October, 2015, the authorities may be directed to consider the representation.</p> <p>Mr. S. Ghosh, learned advocate appearing on behalf of the State respondents submits that the issue may be directed to be considered taking into consideration the new Sub-Rule 75 (aaa) which has come into force on 7th February, 2014.</p> <p>Since we find that the issue is covered by the judgements passed in Mir Samser Zaman vs. The State of West Bengal & Ors. (supra) and in State of West Bengal and Ors. vs. Dr. Sraban Kumar Ghosh (supra) the order dated 13th February 2014 passed by the O.S.D. and Ex-Officio Joint Secretary (MA) to the Government of West Bengal, appearing at page 35 of the application, cannot be sustained and thus is set aside and quashed. The application is allowed. Consequently, the Secretary, Department of health and Family Welfare, respondent No.</p>	

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SCN.	<p>I, now designated as Additional Chief Secretary, Health and Family Welfare Department, Government of West Bengal, is directed to take a decision afresh by passing a reasoned order to be communicated to the applicant within 8 weeks from the date of presentation of a copy of the certified copy of this order after giving an opportunity of hearing to the applicant after taking into consideration the judgements passed in Mir Samser Zaman vs. The State of West Bengal & Ors. (supra) and State of West Bengal and Ors. vs. Dr. Sraban Kumar Ghosh (supra) as well as the order passed by the Hon'ble Supreme Court.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	