

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal (Chairman)****& The Hon'ble Mr. P. Ramesh Kumar (Administrative Member)****Case No – OA 558 OF 2019****DR. ARINDAM BANERJEE & 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 style="text-align: center;">7</p> <hr/> <p>12.09.2019</p>	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Mr. R.K. Mondal, Advocate</p> <p>For the Respondents: Mr. G.P. Banerjee, Advocate</p> <p>In this application the applicants, - stated be posted at “Swasthya Bhawan” as “Dental Surgeon” on “Supy Duty” under the West Bengal Dental Service, - have challenged the order of transfer dated 17th July, 2019, being annexure “F” to the application, on several grounds. It is submitted by Mr. M.N. Roy that the action of the State authorities in transferring the applicants and in releasing them just after the Original Application challenging the order of transfer was served on the respondents speaks of vengeance and is mala fide as they have been deprived of their rights under the West Bengal Dental Service cadre. Submission is that since the applicants have been released and representation dated 19th July, 2019 was made for reconsideration of the order of transfer, appropriate order may be passed for consideration of the said representation. It is submitted that the action of the respondents in releasing the</p>	

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	<p>applicants after receiving a copy of the Original Application is contrary to law as laid down in Dr. Hari Pada Poddar Versus S.R. Das, Secretary to Government of West Bengal, Department of Health : 1974 CLJ 465 particularly in paragraphs 12, 13 and 17 thereof.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits that the order of transfer is in accordance with the West Bengal State Dental Services Act, 2009 and the Rules framed. However, if directed the State authorities will consider the representation dated 19th July, 2019 being Annexure “G” to the Original Application.</p> <p>On a query Mr. Roy submits that the applicants have joined their transferred posts.</p> <p>Having heard the learned advocates for the parties and considering the facts and circumstances of the case, the Original Application is disposed of by directing the Commissioner, Government of West Bengal, Department of Health and Family Welfare, Dental Branch “Swasthya Bhawan”, Kolkata, the respondent no.3 to dispose of the representation dated 19th July, 2019 by passing a reasoned order to be communicated to the parties within ten weeks from the date of presentation of a copy of this order after giving an opportunity of hearing to</p>	

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SCN.	<p>the applicant no.1 or any other applicant so authorised by the applicant no.1, after verifying the records and after considering the law laid down in Dr. Hari Pada Poddar (Supra). Since it has been contended by Mr. Roy that the applicants have been released after notice was issued on the State respondents to move the Tribunal and is contrary to the principles of law laid down in Dr. Hari Pada Poddar (Supra), the reasoned order shall clearly indicate (i) whether the order of release was issued after notice was issued on the respondents to move the Tribunal and (ii) whether it is contrary to the proposition of law laid down in Dr. Hari Pada Poddar (Supra). In the event it is found by the said respondent no.3 that the order of transfer was passed after service of notice for moving the Tribunal and is contrary to the law laid down in Dr. Hari Pada Poddar (Supra), appropriate order shall be passed accordingly within the time frame as mentioned.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	