

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Officiating Chairperson & Member (A)

Case No. – CCP-42 of 2022 (OA- 573 of 2019)

Dr. Anil Kumar Gupta VERSUS – Dr. Siddhartha Niyogi, Director of Health Services, H & F W Deptt.

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|----------------|-------------------|---|----------------------------------|
| Serial No. and | For the Applicant | : | The applicant appears in person. |
| Date of order | For the State | : | Mr. S.N. Ray, |
| | Respondents/O.P. | | Learned Advocate. |

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17.08.2023

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.- II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Dr. Anil Kumar Gupta files his objection to the compliance report filed by the state respondent, let this be kept on record. A copy has been served upon Mr. S.N. Ray, learned counsel for the state respondent.

From the submissions and the records, it appears that the real issue revolves around the period from 06.08.2003 to 18.08.2009. This period has been treated as "Dies-Non" under the relevant rule by the respondent authority and so mentioned in the compliance report. However, Dr. Gupta appearing in person does not agree that this period is to be declared "Dies-Non". According to him, it should be "spent on duty" since a Notification dated 31.08.2009 issued by the Health & Family Welfare stipulates that joining comes into effect from the day the joining letter is submitted. Dr. Gupta also submits that as indicated in the order of the Tribunal dated 30.08.2022, the applicant was on duty. The relevant paragraph of the order relied by him which is as follows :-

- a) "We direct the petitioner himself in the following manner
:- We direct the petitioner to comply with the transfer order from Asansol to Islampur and to join at Islampur

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Sub-Divisional Hospital within 4 (four) weeks from this date and to submit a joining report at the appropriate authority of that hospital with copy to the Principal Secretary of the Health & Family Welfare Department for his personal knowledge; we direct the authority of Islampur Sub-Divisional Hospital to make arrangement for regular payment of salary of the petitioner after his joining and the question of payment of salary, for the period when the petitioner was absent from duty, shall be considered by the Principal Secretary of the Health & Family Welfare Department on the basis of application, which the petitioner shall make before him after joining at Islampur Sub-Divisional Hospital.

- b) We further direct the petitioner to make application for regularisation of his leave for the absent period within 4 (four) weeks after his joining and we direct the Principal Secretary to dispose of the application in accordance with rule within six weeks on receipt of such application. “

In accordance to such direction, Dr. Gupta had furnished an application before the Principal Secretary for regularisation of his absence period on 15.10.2010. Submission is that although as per direction, such a representation for regularisation of absence period was filed but the Principal Secretary did not pass any reasoned order till now. Further, despite another direction of the Tribunal on 21.06.2010, Principal Secretary failed to pass such a reasoned order.

SC

Let the matter appear under the heading Further Hearing on **22.01.2024.**

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

Dr. Siddhartha Niyogi, Director of Health Services, H & F W Deptt..