

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-**

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member**

**Case No. –OA 582 OF 2023**

**ANISH BAIDYA - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	:	Mr. M. N. Roy, Mr. G. Haldar, Advocates
<u>5</u> 12.11.2024	For the State Respondents	:	Ms. Ruma Sarkar, Mr. Saurav Deb Ray, Mrs. Anjana Bhattacharjee, Departmental representatives
	For Respondent Nos. 3,4,5&6	:	Mr. S.K. Mandal, Advocate

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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

The prayer in this application is for a direction to the respondent authorities to set aside the memo No.671 dated 10.11.2022 issued by the District Magistrate & Collector, Darjeeling and thereafter, grant the applicant "Lien" for a period of two years to his confirmed substantive post of Upper Divisional Assistant". The applicant while working as an L.D.A. under the District Magistrate & Collector, Darjeeling, had participated in the recruitment process for the post of "Sub-Inspector" under the Food and Supplies Department by 20.10.2022. His application seeking permission to resign from the present service was forwarded by the S.D.O., Siliguri to the District Magistrate & Collector, Darjeeling on 02.11.2022. District Magistrate by memo No.671 dated 10.11.2022 communicated his acceptance of the resignation from the post of U.D.C. to the applicant. The effect of resignation was from 10.11.2022 and he was allowed to join his new assignment under Food and Supplies Department on 11.11.2022. Later by his representation dated 03.05.2023, the applicant furnished his representation before the District Magistrate stating that his resignation from the earlier office would "create a obstacle to rejoin/revert back to my previous substantive post of UDA under the District Magistrate & Collector, Darjeeling establishment". He prayed for "Lien" instead of the resignation. He prayed for permission to withdraw his resignation for the post of UDA and allowing him "Lien" as per Rule 21 sub-Rule 1 of W.B.S.R. Part I. The Tribunal

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finds a copy of his representation before the District Magistrate & Collector, Darjeeling dated 1<sup>st</sup> November, 2022 in which he prayed for both acceptance of resignation and releasing him on “Lien” for two years.

Mr. Roy, learned counsel refers to Rule 21 (1) of W.B.S.R. Part I and submits that the applicant has every right to get his “Lien” for joining the new post. Though it was not necessary for the applicant, but due to wrong advice, he had tendered his resignation letter.

Mr. Mandal, learned counsel, disagrees with the submission of Mr. Roy and submits that the applicant an educated government employee knowing fully has tendered his resignation which was duly accepted and the acceptance was communicated to him. It is of no consequence that such an accepted resignation letter can be cancelled in favour of the “Lien” he is now seeking. Relying on Rule 33 (A)(1) with notes of W.B.S.R. Part I, Mr. Mandal further states and submits that resignation once accepted is irrevocable.

Mrs. Sarkar, Departmental Representative, representing the Department of L&L.R. files a copy of the memo No.3572 dated 27.09.2023, which was communicated to the District Magistrate & Collector, Darjeeling. By this correspondence, the Department advised the District Magistrate to follow the provisions of the extant rules related to “Lien” (WBSR Part-I).

Having heard the submissions of the learned counsels and the Departmental Representatives, this application is disposed of by directing the District Magistrate & Collector, Darjeeling to consider the representation furnished by the applicant to him dated 03.05.2023 praying for “Lien” after cancellation of the resignation letter in accordance with the Rules within a period of three months from the date of communication of this order and take a final decision and communicate the same to the applicant within a period of two weeks thereafter.

(SAYEED AHMED BABA)  
OFFICIATING CHAIRPERSON  
and MEMBER (A)

SCN.