

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

Case No. - OA 100 of 2020.

DR. AMITABH RAY - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. S. Ghosh, Learned Advocate.
<u>06</u> 01.03.2021	For the State Respondent	: Mr. G.P. Banerjee, Mr. B.P. Roy, Learned Advocates.

The matter is taken up by the single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020 issued in exercise of the powers conferred under sub section (6) of section 5 of the Administrative Tribunals Act, 1985.

In this application Dr. Amitabh Ray, the applicant has prayed for certain reliefs, the relevant portion of which is as under :-

“(a) An order do issue directing the concerned respondent authorities to forthwith issue “Release Order” along with all admissible benefits in favour of the applicant after accepting his resignation letter, so made by him on 26.07.2013 w.e.f. 30.09.2013 before the Director of Medical Education & Ex-officio Secretary, Department of Health & Family Welfare, Government of West Bengal, (Through Proper Channel), followed by reminder letters dated 30.09.2013, 31.07.2019 and 02.12.20019 along with 13 point declaration.

(b)An order do issue directing the concerned respondent authorities to forthwith issue “Release Order” in favour of your applicant after quashing and/or setting aside the rejection order vide Memo No. 1A-715-92/KW/M/45/1(3) dated 10.01.2014...”.

It appears that the applicant was appointed in the West Bengal Medical Education Services on 3rd February, 2010 as R.M.O. cum Clinical Tutor was posted at N.R.S. Medical College , Kolkata in the department of Radiotherapy and was subsequently promoted to the rank of Assistant Professor in the same cadre and joined the post on 17th

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January, 2012. Thereafter, the applicant had tendered his resignation on 26th July, 2013 with effect from 30th September, 2013. The applicant by a reminder letter dated 30th September, 2013 stated that he will not be able to attend duties from 1st October, 2013 implying that his last date of duty was on 30th September, 2013.

The application of resignation was considered by the Director of Medical Education & Ex-officio Secretary, Department of Health & Family Welfare, Government of West Bengal, - the respondent no. 2 and an order was passed which is as under :-

“...The undersigned regrets to inform you that your prayer for resignation from service cannot be considered at present....”.

It is submitted by Mr. S. Ghosh, learned advocate for the applicant that since the resignation was submitted on 26th July, 2013, sub rule 1 of rule 34A of W.B..R. Part-I which came into effect on 26th August, 2016, is not applicable.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondent submits that the impugned letter dated 10th January, 2014 is just and proper.

It appears that the matter was admitted on 8th September, 2020 and directions were issued on the respondents to file reply and rejoinder. However, the State respondents have not filed reply. There is no dispute to the fact that the applicant had joined the post on 10th February, 2009 and had tendered resignation on 26th July, 2013 indicating that he will not attend office from 1st October, 2013. The matter was considered by the respondent no.2 and had intimated that the resignation of the applicant “from service cannot be considered at present”. In my view since much time has passed since 10th January, 2014 and as the applicant is not attending office since 1st October, 2013,

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and as no reply has been filed by the State respondents and thereby the statements made in the application are deemed to be correct, the State respondent no. 2 is directed to accept the resignation of the applicant within fifteen weeks from the date of presentation of a copy of this order downloaded from the internet/website and shall release him and grant all benefits attached to the post within the said period. The application is allowed.

Skq.

(SOUMITRA PAL)
CHAIRMAN