

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Mr. Sayeed Ahmed Baba, Member (Admn.)

**Case No. –OA 37 of 2022**

Dr. Sembagamuthu Sembiah - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No.	For the Applicant	: Mr. M.N. Roy,
and		Mr. S. Ghosh,
Date of order		Mr. G. Halder,
<u>03</u>		Advocates.
08.02.2022	For the State Respondent	: Mr. G.P. Banerjee,
		Advocate.

In the application, Dr. Sembagamuthu Sembiah, 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’ in favour of your applicant without causing delay, so as to enable him to join the post of Assistant Professor, Community Medicine at All India Institute of Medical Science, Kalyani within a stipulated time period after accepting his letter of resignation, as the applicant does not want to further continue with his service under the Government of West Bengal in Department of Health & Family Welfare.*

*(b) An order do issue thereby directing the respondent authorities to allow the case of the applicant and to issue release order in the light of the Order of the Hon'ble High Court at Calcutta as passed in WPST No. 25 of 2021 in the matter of The State of West Bengal & Ors. – vs- Dr. Mukut Mani Adhikari.”*

It appears that the applicant, who had joined West Bengal Medical Education Service on 26<sup>th</sup> February, 2021, had applied for the post in the All India Institute of Medical Science, Kalyani after having no objection certificate from the Director of Medical Education, Government of West Bengal as evident from page 17 of the application. It appears that the applicant participated in the selection process and was successful. By letter dated 22<sup>nd</sup> December, 2021 addressed to the Director of Medical Education the applicant stated that he may tender resignation in the event of his selection. Thereafter, on 20<sup>th</sup> January, 2022, the Executive Director, All India Institute of Medical Science, Kalyani issued a letter to the applicant offering appointment to the post of Assistant Professor and requesting him to join within a month after completion of

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formalities. Thereafter, on 25<sup>th</sup> January, 2022 the applicant submitted resignation before the Secretary, Department of Health and Family Welfare, Government of West Bengal and the Director of Medical Education & Ex-Officio Secretary, Department of Health and Family Welfare, Government of West Bengal, the Respondent No. 1 and 2 respectively along with 13 point declaration annexed to the application. The grievance is since the resignation letter has not been accepted, though the applicant was appointed temporarily and provisionally, appropriate order may be passed directing the respondents to accept the letter of resignation. In support of his submission, Mr. M.N. Roy, the learned advocate to the applicant has referred to the judgment dated 1<sup>st</sup> February, 2021 passed in OA-28 of 2021 (Dr. Mukut Mani Adhikari –vs- The State of West Bengal & Ors.) and in WPST No. 25 of 2021, the State of West Bengal and Others vs Dr. Mukut Mani Adhikari.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits, if directed, the respondent authorities will take steps in accordance with law.

Having heard learned advocates for the parties and considering the facts and circumstances of the case, the application is disposed of by directing the Secretary, Department of Health and Family Welfare, Government of West Bengal, the Respondent no. 1 to take a decision regarding letter tendering resignation by the applicant filed on 25<sup>th</sup> January, 2022 along with the 13 point declaration in the light of the judgment passed in OA 28 of 2021 and WPST No. 25 of 2021 to be communicated to the applicant on or before 16<sup>th</sup> February, 2022. For circumstances beyond control the department is directed to issue plain copies of this order to the parties on usual undertaking.

CSM/HS/SS

**(SAYEED AHMED BABA)**  
**Member (A)**

**(SOUMITRA PAL)**  
**CHAIRMAN**