

**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 42 of 2023**

**Dr. Soumendra Datta. - Versus - The State of West Bengal & Others.**

Serial No. and Date of order	For the Applicant	: Mr. M. N. Roy, Mr. S. Ghosh, Advocates.
<u>05</u> 11.10.2023.	For the State Respondents	: Mr. G. P. Banerjee, 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.

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

Being aggrieved by the order of this Tribunal in OA-436 of 2022 dated 12.08.2022, the applicant preferred WPST 96 of 2022 in the Hon'ble High Court. This writ petition was heard and disposed of by the Hon'ble High Court allowing the applicant to tender his resignation in the prescribed format. If such a resignation in prescribed format was filed by the applicant, direction was also given to the respondent authorities to dispose of the same in accordance with law. Accordingly, on 02.11.2022, the applicant submitted his resignation in proper format before the Secretary, Department of Health and Family Welfare and the Director of Health Services. After considering the resignation letter, the respondent – the Director of Health Services passed a reasoned order on 14.12.2022 directing the applicant to take "Final Release" from C.M.O.H., Birbhum and join the new place of posting i.e. Falakata Sub-Divisional Hospital, Alipurduar. The reasoned order also directed that a fresh prayer for resignation through proper channel in prescribed format be submitted after joining the new place of posting i.e. Falakata Sub-Divisional Hospital, Alipurduar.

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Contesting such a direction of the Director of Health Services, Mr. M. N. Roy, learned counsel for the applicant submits that the respondent has passed a new direction to the applicant directing him to join Falakata and then apply afresh his resignation. This is in contravention of the order of the Hon'ble High Court. By such a direction, the Director of Health Services has not only violated the order of the Hon'ble High Court but also ignored his resignation letter submitted earlier in prescribed format.

In response what Mr. Roy has submitted, Mr. Banerjee, learned counsel appearing on behalf of the respondents submits that for administrative and procedural reasons, it was required that the applicant join his place of posting and then submit his letter of resignation from the new place of posting. Since he has not complied with the transfer order issued on 05.10.2020, therefore, joining the new place of posting is also required to regularise his period of absence after such transfer order was issued.

After hearing the submissions of the learned counsels and considering the facts and circumstances of the matter, the Tribunal finds that the spirit of the Hon'ble High Court order passed in WPST 96 of 2022 was for submission of the resignation letter in prescribed format by the applicant and once submitted this was to be considered by the respondent authorities according to law. Therefore, it is a secondary matter whether such resignation letter in prescribed format was filed from the previous place of posting, Bolpur or to be filed from the new place of posting, Falakata. What is important and relevant in this matter is that the resignation letter in prescribed format be considered and a reasoned order passed as per Rule. Therefore, the Tribunal does not agree with the direction of the respondent, the Director of Health

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Services directing the applicant to first join the new place of posting and then, re-submit his resignation letter. It appears that this is more an egoistic decision compelling the applicant to comply with the order first then only his resignation will be considered. This was not what the Hon'ble High Court intended.

In view of the above observation, the Tribunal finds the reasoned order passed by the Director of Health Services on 14.12.2022 is violative of the direction of the Hon'ble High Court and the same is quashed and set aside with a direction to the respondent no. 3, the Director of Health Services to consider the resignation furnished before him by the applicant in prescribed format dated 02.11.2022 in the light of the order passed by the Hon'ble High Court in WPST 96 of 2022 within eight (08) weeks from the date of communication of this order.

Accordingly, the application is disposed of.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A)

S.M./H.S.