

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 46 of 2020

Anjana Roy - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>07</u> 08.04.2022	For the Applicant	: Mrs. S. Agarwal, Advocate.
	For the Respondent No. (i)	: Mr. S. Debray, Departmental Representative.
	For the Other Respondents	: Mr. G.P. Banerjee, Advocate.

In this application, Anjana Roy, the applicant, has challenged the order dated 21st November, 2019 passed by the District Magistrate and Collector, Jalpaiguri. The applicant joined service on 11th September, 1997 in the post of LDA at Jalpaiguri Collectorate and was confirmed on 1st February, 2000. It appears that the applicant, an Upper Division Assistant, on 11th September, 2017 and on 24th November, 2017 applied for voluntary retirement from service with effect from 9th August, 2018. Since the applicant, being a permanent employee, is entitled to CCL as per rule, she applied for CCL from 19th July, 2017 to 15th September, 2017 which was approved. Subsequently, she again applied for extension of her CCL from 16th September, 2017 to 8th December, 2017 and from 9th December, 2017 to 8th August, 2018 without joining service. It appears she had applied for CCL for 386 days at a stretch out of which the leave for first 59 days, considering her first application, has been approved. We find that the applicant applied for EL for 231 days from 13th August, 2018 to 31st May, 2019 which is yet to be approved. It also appears that the applicant by memo dated 27th August, 2018 was asked to join her duty, but she failed to turn up. Subsequently, the Additional District Magistrate (G) on 25th February, 2019 called for hearing regarding unauthorised absence when she appeared, but refused to join.

It is submitted by Mrs. S. Agarwal, learned advocate for the applicant since she had applied for voluntary retirement in accordance with law, which is yet to be disposed of, she did not join the duty. Submission is though the

Form No.

Case No. **OA 46 of 2020**

Vs.

THE STATE OF WEST BENGAL & ORS.

respondents have threatened to initiate department proceedings against her, however, till date they have not initiated any such proceeding. Had it been a case of serious misconduct, the respondents would have initiated such proceedings. In not initiating such proceedings and as the applicant being well within her rights has applied for voluntary retirement in accordance with rules, and has not joined service, appropriate direction may be issued on the respondents to regularise her leave and to grant voluntary retirement.

Mr. G.P. Banerjee, learned advocate appearing for the State respondents submits that since only 59 days of the CCL out of 386 days of the applicant has been approved and as she has flouted repeatedly the notice to join duty, unless she joins and prays for regularisation of her leave, no order may be passed.

Heard learned advocates for the parties. Admittedly, the applicant submitted a notice for voluntary retirement on 24th November, 2017 and sought for voluntary retirement on and from 9th August, 2018. There is no dispute that though she applied for CCL for 386 days, only 59 days have been approved considering her first application. She had applied for EL with effect from 13th October, 2018 to 31st May, 2019 which has not been approved. By memo dated 27th August, 2018, she was requested to join duty which she refused. She appeared before the Additional District Magistrate (G), Jalpaiguri on 25th February, 2019 regarding her unauthorised absence from office, but she did not join duty. Fact remains in spite of request and orders, she has refused to join. Admittedly, there are CL and EL of the applicant which are yet to be regularised. Since the applicant has submitted her application for voluntary retirement she is entitled for consideration of the same. However, as we find there is unauthorised absence, we direct that the applicant shall join duty and report before the District Magistrate and Collector, Jalpaiguri, the respondent no. 2 (iii) within a fortnight from the date of communication of this order. Upon joining, the District

Form No.

Case No. **OA 46 of 2020**

Vs.

THE STATE OF WEST BENGAL & ORS.

Magistrate within a fortnight shall carry out the process of regularisation of her unauthorised absence and forward her application for voluntary retirement to the Principal Secretary, Land & Land Reforms Department, the respondent no. 2 (i). The Principal Secretary, respondent no. 2 (i) upon receiving the application for voluntary retirement shall dispose of the same by passing a reasoned order to be communicated to the applicant within four weeks in accordance with law, Circulars and Notifications governing in the field.

(SAYEED AHMED BABA)
Member (A)

(SOUMITRA PAL)
CHAIRMAN

CSM/SS