

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. - O.A. 487 of 2020

BEGAM AYESHA JULKHA KHAN - 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>4</u> 24.02.2021	For the Respondents	: Mr. S. Ghosh, 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, Begam Ayesha Julkha Khan, the applicant, pursuing Post Basic B.Sc. (Nursing) has challenged the order dated 4th August, 2020 calling upon the applicants to give explanation for continuing the said course allegedly without permission.

Mr. M.N. Roy, learned advocate for the applicant submits since the issue is covered by the judgement passed on 15th December, 2020 in WPST 71 of 2020 with CAN 1 of 2020 : “Papiya Maity & Ors. vs. State of West Bengal and Others”, appropriate order may be passed. Submission is in Papiya Maity (supra) though the candidates belong to M.Sc. Nursing, the issue is identical which is not disputed by Mr. S. Ghosh, learned advocate for the State respondents. In this regard attention has been drawn to the relevant portion of the said judgement which is as under:

“Thus, even though the relief sought by the writ petitioners – of allowing them to complete the remainder of their course upon study leave being granted – cannot be granted, the period till the publication of the list when

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they missed attending office or their regular duties, has to be treated as if they were in service and allowed to attend office, without any leave being deducted therefor or any absence or discontinuity of service being attracted.

In fine, the writ petitioners are found not to be entitled to pursue the post-graduate course that they had embarked on in October, 2019. However, if the writ petitioners still want to pursue their studies, because they have already invested substantial time therein, the completion of the remainder of the course will be subject to the State Government being entitled to treat the period of absence, after deducting all permissible leave, as extraordinary leave during which the relevant writ petitioners will not be entitled to any pay or benefits, but which will not amount to discontinuity in service.

WPST 71 of 2020 with CAN 1 of 2020 are disposed of on the above basis.”

(Emphasis supplied)

As the applicant is pursuing Post Basic B.Sc. (Nursing) course, if she still want to continue her studies, because she has already devoted substantial time therein, in that event, the Director of Health Services, Government of West

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SCN. Bengal, Kolkata, the respondent no.4 shall dispose of the issue by passing a reasoned order to be communicated to the parties within eight weeks from the date of communication of this order downloaded from the internet / website, in the light of the law laid down in Papiya Maity (supra) as noted, after giving an opportunity of hearing and after verifying the records. The application is disposed of. Interim order, if any, stands vacated.

(SOUMITRA PAL)
CHAIRMAN