

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

Case No. - OA 519 of 2021

Dr. Kiran Kumar Mukhopadhyay - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. S. Ghosh, Advocate.
<u>2</u> 06.08.2021	For the State respondents	: Mr. G.P. Banerjee, Advocate.

The matter is taken up by the single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020 and 456-WBAT/2J-15/2016 dated 16th July, 2021 issued in exercise of the powers conferred under sub-section (6) of Section 5 of the Administrative Tribunals Act, 1985.

Affidavit of service filed be kept on record.

In this application, Dr. Kiran Kumar Mukhopadhyay – the applicant has prayed for certain reliefs, the relevant portion of which is as under –
“(a)..... An order do issue thereby directing the respondent authorities to regularize the absence period from 01.10.2018 to 02.07.2021 in accordance with rules as your applicant is having leave credited to his account within a stipulated time period and also considering the fact that the applicant has voluntarily joined his previous place of posting even after the Order dated 07.12.2020 passed in O.A. No. 147 of 2020 (Dr. Kiran Kumar Mukhopahyay – Vs- The State of West Bengal & Others), which has practically lost its force at present.

(b) An order do issue thereby directing the concerned respondent authorities to forthwith dispose of the representation dated 09.07.2021 by passing reasoned and speaking order within a stipulated time period after giving an opportunity of hearing to the applicant.”

The applicant earlier had moved an application, being OA 147 of 2020 challenging the reasoned order rejecting his application for resignation, which was allowed by judgment dated 20th December, 2020

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and the Principal Secretary, Department of Health and Family Welfare was directed to issue release order in favour of the applicant and to release the financial benefits. Subsequently, the applicant by affirming an affidavit sworn on 31st May, 2021, desired to 'resume' his services and to 'rejoin the NRS Medical College, Kolkata at the earliest'. By order dated 2nd July, 2021, the Director of Medical Education, the respondent no. 2, permitted him to join at his previous place of posting on condition that he will have to withdraw the case being application no. OA 147 of 2020 as soon as he resumed his work. It appears that on 3rd July, 2021, the applicant rejoined his service and request was made to the authorities to regularise his period of absence in accordance with law.

It is submitted by Mr. S. Ghosh, learned advocate for the applicant that since the State respondents have accepted his prayer for rejoining service and has rejoined, the order passed on 7th December, 2020 in OA 147 of 2020 has become otiose. Prayer is that the period of absence may be regularised after considering the representation dated 9th July, 2021 addressed to the Director of Medical Education, the respondent no. 2, being annexure C to the application.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits, if directed, the State respondents will consider the issue regarding regularising period of absence of the applicant in accordance with law.

Heard learned advocates for the parties. Since the State respondents have allowed the applicant to rejoin his service and has rejoined and

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resumed duty on 3rd July, 2021, the order passed in OA 147 of 2020 has become otiose. So far as the prayer for regularising period of absence is concerned, the issue will be disposed of by the Secretary, Department of Health and Family Welfare, Government of West Bengal by considering the representation dated 9th July, 2021 addressed before respondent no. 2 by passing a reasoned order to be communicated to the parties within eight weeks from the date of presentation of a copy of this order downloaded from the internet / website after giving an opportunity of hearing.

The application is disposed of.

Since for circumstances beyond control the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

(SOUMITRA PAL)
CHAIRMAN

Rajib

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