

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

Present : **HON'BLE JUSTICE SOUMITRA PAL,**      **HON'BLE CHAIRMAN &**  
**HON'BLE SAYEED AHMED BABA,**      **ADMINISTRATIVE MEMBER.**

Case No. – OA 599 of 2021.

DR. SOMAK KRISHNA BISWAS – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. M.N. Roy, Advocate.
<u>4</u> 8.2.2022	For the State Respondents	: Mr. G.P. Banerjee, Advocate.

In this application Dr. Somak Krishna Biswas, the applicant has prayed for setting aside the reasoned order dated 7<sup>th</sup> August, 2020 passed by the Director of Medical Education and Ex-officio Secretary, Department of Health and Family Welfare, Government of West Bengal, Calcutta, - the respondent no.3. Prayer has also been made for issuing the release order pursuant to the letter of resignation submitted on 28<sup>th</sup> September, 2018.

At the very outset, it is submitted by Mr. M.N. Roy, learned advocate for the applicant that since the issue is covered by the judgement delivered on 1<sup>st</sup> February, 2021 in OA 28 of 2021 (Dr. Mukut Mani Adhikari – Vs- The State of West Bengal & Ors), the application may be allowed. Submission is challenging the said judgement of the Tribunal, the State authorities preferred a writ petition, being WPST 25 of 2021 (The State of West Bengal & Ors – Versus- Dr. Mukut Mani Adhikari) which was dismissed by judgement delivered on 27<sup>th</sup> July, 2021. It is also submitted that though the applicant was appointed on 3<sup>rd</sup> November, 2015 'provisionally', as the word 'provisional' is akin to 'temporary' and as Rule 34(a) of W.B.S.R. Part-I speaks of regular Government employees, since the applicant was provisionally appointed and as the issue is covered by the judgement of the High Court and

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Form No.

DR. SOMAK KRISHNA BISWAS.

Case No. **OA 599 of 2021.**

**Vs.**  
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Tribunal, appropriate order may be passed.

Mr. G.P. Banerjee, learned advocate for the State respondents submits since the issue is covered by the judgement passed by the Tribunal in OA 28 of 2021 and by the High Court in WPST 25 of 2021, appropriate order may be passed.

Since admittedly the issue is covered by the judgements passed by the Tribunal on 1<sup>st</sup> December, 2021 in OA 28 of 2021(Dr. Mukut Mani Adhikari – Vs- The State of West Bengal & Ors) and in WPST 25 of 2021 (The State of West Bengal & Ors – Versus- Dr. Mukut Mani Adhikari), the order declining the prayer of resignation of the applicant being annexure at page 40 and 41 to the application, is set aside and quashed. The application is allowed. The Secretary, Department of Health and Family Welfare, Government of West Bengal, - the respondent no. 1 is directed to accept the resignation of the applicant within four weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal and shall take follow up action within four weeks thereafter.

Let plain copies of this order be furnished to the learned advocates to the parties on usual undertakings.

(SAYEED AHMED BABA)  
MEMBER(A)

(SOUMITRA PAL)  
CHAIRMAN.

Skg.

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