

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present- **The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

Case No. –OA 697 of 2023

Dr. Anjila Paul -- VERSUS – The State of West Bengal & Others

Serial No. and Date of order <u>04</u> 10.01.2025	For the Applicant	: Mr. M. N. Roy, Mr. S. Ghosh, Mr. G. Halder, Advocates.
	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 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has prayed for setting aside the impugned Memo. dated 04.09.2023 issued by the Director of Medical Education regretting the prayer for resignation from government service.

The applicant working as RMO-Cum-Clinical Tutor under North Bengal Medical College, Darjeeling, had submitted her application for resignation on 22.05.2023 citing personal and family reasons. The respondent authority regretted her prayer for resignation in terms of provisions under Memo. No. 4499-F(P) dated 26.08.2016. The respondent, the Director of Medical Education records that such resignation cannot be accepted for the reason that she has rendered less than five years of continuous service.

After hearing the submissions of the learned counsels and considering the facts and circumstances of this case, the Tribunal has come to this finding that in similar matters this Tribunal and Hon'ble High Court has passed directions in Dr. Mukut Mani Adhikari –Vs.-The State of West Bengal and Others. The Tribunal in its order in OA-28 of 2021 dated 01.02.2021 had observed that the applicant was appointed temporarily and was not on probation or was confirmed as permanent, therefore, the amended Rules do not apply. The direction of the Tribunal was

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subsequently upheld by Hon'ble High Court in WPST – 25 of 2021. The Tribunal's observation being, "*since the applicant was appointed temporarily and was not on probation or was confirmed as permanent, the amended Rules do not apply.*" In the case as cited here, the resignation letter of Dr. Adhikari was rejected in view of the amendment of Sub-Rule (1) of Rule 34 A of the WBSR Part-I. The applicant in the case had not completed the mandatory period of five years of continuous service.

Similarly, in WPST-32 of 2022 arising out of Dr. Sembagamuthu Sembiah-Vs.-The State of West Bengal & Ors., the Hon'ble High Court had directed the Secretary, Department of Health & Family Welfare to release the petitioner.

In view of the observations above, the Tribunal comes to the conclusion that the impugned order passed in Memo. 2225 dated 04.09.2023 rejecting the prayer of the applicant is not tenable and thus quashable and it is quashed and set aside with a direction to the respondent no. 2, the Principal Secretary, Department of Health & Family Welfare to issue the release order to the applicant within 60 days from the date of presentation of a copy of this order.

The application is disposed of.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

S.M.