

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 77 of 2023 (MA 25 of 2023).

DR. SHIV SEKHAR CHATTERJEE - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

4
20.4.2023

For the Applicant

: Mr. S.Ghosh,
Advocate.

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.

On consent of the learned counsel for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for a direction to the respondent department to accept the resignation letter and issue release order to the applicant. As submitted by Mr. S. Ghosh, learned counsel for the applicant and as evident from an order dated 9th September, 2022, the applicant was allowed to appear in the interview for the post of Additional Professor (Micro Biology) in AIIMS, Kalyani. Appearing at page 20, the respondent department had also issued a certificate on 9th September, 2022 to the effect that in the event of the applicant being considered for the post by AIIMS, Kalyani, he will be released from the duty to take up the new post. Subsequently, the applicant was successful and was offered an appointment by AIIMS, Kalyani on 22.11.2022 with the condition that he should join the post within a month. Upon request by the applicant, AIIMS, Kalyani has been extending the time of joining for the applicant. It also appears that on 03rd January, 2023, one Joint Secretary and Vigilance Officer of the Department has certified that there is no Departmental Proceedings against the applicant. Moreover, the applicant has

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submitted his asset declaration statements for the last three years. Submission of Mr. Roy is that the respondent department may be directed to accept his resignation letter and issue the release order at the earliest.

On 3rd March, 2023, this Tribunal had directed the Director of Medical Education to consider the prayer of the applicant for resignation and pass a reasoned order.

In terms of the Tribunal's order dated 3rd March, 2023, the Director, Medical Education passed a reasoned order on 6th April, 2023. The reasoned order having considered the facts and circumstances, rejected the resignation prayer of the applicant due to the reasons that "*....there is acute dearth of faculties under WBMES in the Medical Colleges of the State and in the greater interest of public service....*".

After perusing the reasoned order passed by the respondent following observations are noted :-

Firstly, the applicant, as an aspirant for an employment in AIIMS, Kalyani, had submitted the application in the prescribed proforma. This prescribed proforma was also attached with the "No Objection" Certificate" signed by a senior official of the Department, Special Secretary (Medical Education) on 9th September, 2022. It is interesting to note that not only the applicant was allowed to apply, but the respondent also, in advance, stated that "*....In the event of his selection of the post, he will be relieved from the duty to take up the post of Additional Professor _ in AIIMS, Kalyani*".

Secondly, voluntary resignation of employees are generally not accepted, if there is either any Departmental proceedings or any vigilance matter pending against the employee. In this case, as observed earlier, the Joint Secretary to the Government of West Bengal and Vigilance Officer of the Department has certified vide No. HF/O/Vigilance/8/ME/REGN/05-2022 dated 3rd January, 2023 that "*From the records available in our branch, it is found that there is no departmental proceeding against the incumbent...*".

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Thirdly, although, the respondent has rejected the resignation letter citing “acute dearth” of faculties under WBMES, however, no data showing total strength of Faculty/Speciality and vacancies have been mentioned and relied upon. By simply using a generic word “dearth”, the respondent has rejected the resignation of this applicant. It would have been more convincing if the total strength of Associated Professor/Professor of Micro Biology is shown against existing vacancies and thus justified the reason of rejection. The word “dearth” is not only vague, but also not justifiable in rejecting the application.

It should also be noted that, in similar cases in the recent past, the Hon’ble High Court, Calcutta has given clear and specific directions to the respondent for acceptance of such resignation and releasing the applicant. Such directions were given in WPST 22 of 2016 in the matter of one Dr. Debarati Chattopadhyay –Vs- the State of West Bengal & Ors, WPST 86 of 2020 in the matter of Dr. Debangshu Ghosh – Vs- the State of West Bengal & Ors), WPST 88 of 2022 in the matter of (The State of West Bengal & Ors – Vs- Dr. Brojen Choudhury) and WPST 25 of 2023 in the matter of (Dr. Rivu Basu – Vs- The State of West Bengal & Ors).

Therefore, based on the above facts and circumstances, it is finding of this Tribunal that the reasoned order passed by the respondent on 6th April, 2023 rejecting the prayer for resignation of the applicant is arbitrary and not based on any specific administrative reasons.

Therefore, the reasoned order is quashed and set aside with a direction to the Director of Medical Education, Department of Health & Family Welfare, - the respondent no. 3 to reconsider the applicant’s resignation letter and pass a reasoned order in the light of above observations within three weeks from the date of communication of this order. The reasoned order when passed be communicated to the applicant within one week thereof.

The application is disposed of.

Skg.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

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