

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. - OA 86 OF 2022

DR. DEBABRATA SAMAJDAR - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and

Date of order

4

28.02.2022

For the Applicant

: Mr. Subir Sanyal,
Mrs. Sumouli Sarkar,
Advocate

For Respondents

: Mr. Gautam Pathak Banerjee,
Advocates

The matter is taken up by the single Bench pursuant to the order contained in the Notification No.118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6(5) of the Administrative Tribunals Act, 1985.

Let affidavit of service filed today be kept on record.

In this application, Dr. Debabrata Samajdar, the applicant, has prayed for certain reliefs, the relevant portion of which is as under:-

“(a) An order directing the respondents to forthwith issue a formal release order in favour of the applicant, releasing him from the respondent no.4 college on lien or otherwise, so as to allow him to join the post of RMO Cum CT, General Surgery in the respondent no.6 college;”

It appears that the applicant was appointed as a Tutor / Demonstrator in the Department of General Surgery in the Murshidabad Medical College and Hospital and joined the said post on 13th August, 2019 and is working. Pursuant to an advertisement issued on 22nd September, 2022 by the West Bengal University of Health Sciences for the post of RMO Cum CT, (General Surgery) in the said university the applicant prayed for no objection certificate for appearing in the interview which was granted by order dated 5th October, 2020 by the Director of Medical Education, Government of West Bengal, the respondent no.3. wherein the applicant was permitted “to appear in the interview only. He has to obey F.D.

ORDER SHEET

Form No.

DR. DEBABRATA SAMAJDAR

Vs.

Case No. - OA 86 OF 2022

THE STATE OF WEST BENGAL & ORS.

Memo No. 4499-F(P) dated 26th August 2016 and West Bengal Service Rules 1971 as amended from time to time and also the discretionary power of the authority.” The applicant was selected as evident from page 22 of the application. The applicant thereafter by letter dated 13th January, 2022 prayed before the respondent no.3 for joining the College of Medicine and JNM Hospital, Kalyani, District Nadia as RMO-CT (General Surgery), which has been forwarded by the Professor & HOD, Department of Surgery Murshidabad Medical College, Murshidabad as evident from page 27 of the application.

It is submitted by Mr. Subir Sanyal, learned advocate on behalf of the applicant, since the applicant is entitled to lien and is required to join the post on or before 4th March, 2022 appropriate order may be passed directing the respondents to release on lien or otherwise. Referring to the page no. 28 and 29 of the application, submission is since in the case of Dr. Monojit Mondal and Dr. Sourav Das, the State has accepted the technical resignation tendered by them, appropriate order may be passed.

Mr. Gautam Pathak Banerjee, learned advocate on behalf of the respondents submits that since the applicant is not confirmed and is not permanent, he is not entitled to lien in view of the law laid down by the Hon'ble High Court in W.P.S.T. 107 of 2020 : Arindam Ray v. State of West Bengal and Others. Submission is the matter went upto the Supreme Court wherein the SLP filed by the applicant was dismissed. Subsequently an application of review, that is, R.V.W. No. 75 of 2021 filed by the applicant, was also dismissed. Therefore, no order be passed. Moreover, the applicant herein has not prayed for technical resignation.

Since the applicant has been requested by the West Bengal University of Health Sciences to join as RMO Cum Clinical Tutor at the College of Medicine and JNM Hospital, Kalyani, District Nadia by 4th March, 2022, considering the submissions advanced by the learned advocates for the parties, the application is disposed of by directing the Director of Medical Education, Government of West

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DR. DEBABRATA SAMAJDAR

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THE STATE OF WEST BENGAL & ORS.

SCN. Bengal, the respondent no.3 to consider the application dated 13th January, 2022 appearing at page 27 of the original application, for joining at the College of Medicine and JNM Hospital, Kalyani, District Nadia by 4th March, 2022 by passing a reasoned order on 2nd March, 2022 to be communicated to the applicant on the same date after considering the law laid down in Arindam Ray (Supra).

(SOUMITRA PAL)

CHAIRMAN

WEST BENGAL ADMINISTRATIVE TRIBUNAL