

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. - OA 88 OF 2022

DR. MANAS GHOSH - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and

Date of order

2
28.02.2022

For the Applicant

: Mr. Subir Sanyal,
Mrs. Sagnik Roy Chowdhury,
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. Manas Ghosh, 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 Assistant Professor, General Medicine in the respondent no.6 college;”

It has been stated that the applicant had initially been appointed to the post of RMO-cum-Clinical Tutor in the month of October, 2014 in Murshidabad Medical College and Hospital. Thereafter, he had joined as an Assistant Professor in General Medicine at Calcutta National Medical College and Hospital, Kolkata, the respondent no.4 on 19th September, 2018. Later he had joined Murshidabad Medical College and Hospital on 7th February, 2019 as an Assistant Professor in General Medicine and is still working there. It appears that pursuant to a

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notification dated 22nd September, 2020 the applicant applied for the post of Assistant Professor in General Medicine and sought for permission from the Director of Medical Education, Government of West Bengal, the respondent no.3. By order dated 7th October, 2020 the applicant was permitted to appear with the note : *“Permission is meant for ‘appearing’ in the interview only. He has to obey F.D. Memo No. 4499-F(P) Dt. 26.08.2016 and West Bengal Service Rules’ 1971 as amended time to time and also the discretionary power of the authority.”* It appears subsequently the applicant has been selected for the post of Assistant Professor in General Medicine as evident from page 24 of the original application. The applicant thereafter by letter dated 5th January, 2022 which was received on 10th January, 2022 has prayed before the Director of Medical Education and Ex-Officio Secretary, Government of West Bengal, the respondent no.3 for “release” from the post of Assistant Professor in General Medicine in Murshidabad Medical College and Hospital.

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 nos. 27 and 28 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 for 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

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resignation, but has prayed for release without lien.

SCN.

Since the applicant has not prayed for neither lien nor 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 for mere “release” is disposed of by directing the Director of Medical Education, Government of West Bengal, the respondent no.3 to consider the application dated 5th January, 2022 appearing at page 26 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