

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. - OA 89 OF 2022

DR. SABYASACHI SARKAR - 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,
Advocates

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. Sabyasachi Sarkar, the applicant, has prayed for several 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, Obstetrics and Gynaecology in the respondent no.6 college;”

It has been stated that the applicant had joined as a Medical Officer (Obstetrics & Gynaecology) at Chittaranjan Seva Sadan, College of Obstetrics, Gynaecology & Child Health, Kolkata, the respondent no.4 on 23rd March, 2017 and is still working there as RMO Cum CT (Obstetrics & Gynaecology). It appears that pursuant to a notification dated 22nd September, 2020 the applicant applied for the post of Assistant Professor in (Obstetrics & Gynaecology) and sought for permission from the Director of Medical Education, Government of West Bengal, the respondent no.3. By order dated 5th October, 2020 the applicant was permitted to appear with the note : “Permission is meant for ‘appearing’ in

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the interview only. They have 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 RMO Cum CT (Obstetrics & Gynaecology) as evident from page 26 of the original application. The applicant thereafter by letter dated 13th January, 2022 has prayed before the Director of Medical Education and Ex-Officio Secretary, Government of West Bengal, the respondent no.3 for "lien / resignation" from the post of RMO Cum CT (Obstetrics & Gynaecology), Chittaranjan Seva Sadan, Kolkata.

Mr. Subir Sanyal, learned advocate on behalf of the applicant submits, on instruction from the applicant, who is present in the Tribunal, that the resignation of his client may be accepted by the Director of Medical Education and Ex-Officio Secretary, Government of West Bengal, the respondent no.3. As he is required to join the post on or before 4th March, 2022, appropriate order may be passed directing the respondents to release him by 2nd March, 2022. Referring to the page nos. 35 and 36 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 has not been confirmed and is not permanent, he is not entitled to lien as prayed for 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 which went upto the Supreme Court wherein the SLP filed by the applicant therein 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.

Having heard learned advocates for the parties, since it has been submitted on behalf of the applicant, on instruction from the applicant that his "resignation letter" dated 13th January, 2022 appearing at page 30 of the original application, as

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forwarded by the Principal and Dean, Chittaranjan Seva Sadan, College of Obstetrics, Gynaecology & Child Health, Kolkata, be accepted and as it has been requested by the West Bengal University of Health Sciences to join as RMO Cum Clinical Tutor (Obstetrics & Gynaecology) 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 Bengal, the respondent no.3 to consider and accept the application dated 13th January, 2022 treating the same as resignation for joining at the College of Medicine and JNM Hospital, Kalyani, District Nadia, by passing a reasoned order on 2nd March, 2022 to be communicated to the applicant on the same date.

SCN.

(SOUMITRA PAL)
CHAIRMAN