

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,
Case No. – OA- 269 OF 2023**

DR. MANIK KATARUKA - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. Manujendra Narayan Roy Mr. Sankha Ghosh Advocates
<u>02</u> 20.09.2023	For the State Respondent	: Mr. Ranjit Kumar Mondal 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 counsels for the contesting parties, the case is taken up for consideration sitting singly.

In the application, Manik Kataruka – the applicant, has challenged the reasoned order dated 13th March, 2023 passed by the Director of Medical Education, Department of Health and Family Welfare, Government of West Bengal. Prayer has also been made to issue release order after accepting his resignation letter dated 01.12.2022.

Submission is, though the said respondent No. 3 has rejected the application of the applicant for resignation, however, the issue is covered by the judgment dated 04.11.2022 in WPST 88 of 2022 : The State of West Bengal and Others. -Vs- Dr. Brojen Choudhury.

Mr. R.K.Mondal, learned counsel appearing on behalf of the State respondents submits that the order under challenge is just and proper. Mr.Mondal further submits that there is an acute dearth of such Specialists in the field of Assistant Professor (Nephrology). Presently out of 15 sanctioned posts only 6 posts are in position. Submission of Mr.Mondal is that consideration of such resignation letters are based on

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administrative exigencies. In this case, the application for resignation had to be rejected on such ground.

After hearing the submissions of the learned counsels and considering the merits in this matter, I find that the issues covered in the judgement of the Hon'ble High Court in Dr.Brojen Choudhury is very similar to this matter. The relevant portion of the judgement of the Hon'ble High Court is as under:

“ There is no provision contained in the aforesaid Rules which permeate into the appointing authority to reject the letter of resignation or to withhold the intention, nor the authority is clothed with any such power to compel the employee to remain in service endlessly or in perpetuity”.

It is also the understanding of the Tribunal from the records and submissions that no disciplinary proceedings is pending against the applicant.

The Tribunal does appreciate the contention of the respondents for rejecting such applications on the ground of shortage of Doctors / Specialists. But the Tribunal also feels that such shortages will not last for ever if endeavours are made consistently to fill up such vacant posts. It is true that the health sector is a very important area not to be ignored, however, such shortages should also not be a detrimental to the interest of serving medical personnel nor should this be an excuse to thwart the aspirations for growth of their career.

Therefore, in view of the above observations, the application is

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allowed. The impugned order dated 13.03.2023 passed by the Director of Medical Education, Department of Health and Family Welfare, is set aside and quashed. The Principal Secretary Department of Health and Family Welfare, Government of West Bengal, the Respondent No. 2, is directed to issue the Release Order to the applicant within eight weeks from the date of presentation of a copy of this order.

The respondent authority shall also complete other formalities, like recovery of dues, if any, from the applicant before such a release order is issued.

Accordingly, the application is disposed of.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

BLR