

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. –OA-116 of 2025

Dr. Sarmila Das Chatterjee.-- **VERSUS** – The State of West Bengal & Others

Serial No. and Date of order	For the Applicant	:	Mr. S. Bandyopadhyay, Ld. Advocate.
<u>01</u> 13.03.2025	For the State Respondents	:	Mr. G. P. Banerjee, Ld. 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.

Affidavit of service filed today be kept on record.

The prayer in this application is for a direction to the respondent authorities to allow her to join West Bengal Health Service (WBHS) from West Bengal Public Health & Administrative Service (WBPHAS). In prayer 8 (ii) she prays for a direction to the respondent authorities not to transfer to any Rural Hospital (BPHC/RH) and not to transfer her to any hospital lower than Sub-Divisional Hospital (SDH).

From the submissions of the learned counsels, it is observed that an order was passed by the Deputy Director of Health Services (Admn.), West Bengal dated 11.03.2024 being Memo. 1603. In the order the name of the applicant appears at Serial No. 6, the relevant part of the order is :

“In reference to above subject, it is to state that all of the eleven Officers, as mentioned below, initially joined in WBHS cadre and thereafter they opted in and subsequently absorbed in WBPH&AS cadre as per gazette notifications no. H/MA/1623/Z-46/1999, Dated 20.08.2004, observing its ‘Terms and conditions for exercising option’, wherein point (2) it was clearly mentioned that “the option, once exercised, shall be final and shall in no circumstances be revoked at any subsequent date.”

Mr. G. P. Banerjee, learned counsel points out that although the applicant is praying for joining the West Bengal Health Service after

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migrating from West Bengal Public Health & Administrative Services but the applicant has not challenged the Memo. 1603 dated 11.03.2024. Submission is that the applicant once opted and being absorbed in West Bengal Public Health & Administrative Services, she cannot later change her option. Further, Notification No. 1999 dated 20th August, 2004 is referred to in which at Serial No. 2 the following sentence is mentioned :-

“The option, once exercised, shall be final and shall in no circumstances be revoked at any subsequent date.”

Mr. Bandyopadhyay, learned counsel refers to a document in this application dated 06.01.2005 Memo. No. A97. The Tribunal is not satisfied this is an admissible document, neither a proper Memo. number nor a signature is visible. It appears to be a typed copy of a document. Mr. Bandyopadhyay was advised to present the authentic copy, but he could not.

Having heard the submissions of the learned counsels, the Tribunal is of the view that the applicant having once exercised her option to remain and to be absorbed under West Bengal Public Health cum Administrative Services cannot at a later stage change her mind and request for migration to West Bengal Health Service. A copy of her option available in this application dated 21.09.2022 shows that she had opted for West Bengal Public Health & Administrative Services and such option was presented before the Principal Secretary and the Director of Health Services, Department of Health and Family Welfare. In terms of the Notification No. 1999 dated 20th August, 2004, her prayer for such change of cadre is not valid. Furthermore, the applicant has not assailed the Memo. 1603 of 11.03.2024.

Therefore, this application is disposed of without passing any orders.

S.M.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)