

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Present- The Hon'ble Justice Soumitra Pal (Chairman) &
The Hon'ble Dr.Subesh Kumar Das (Administrative Member)

Case No. OA – 428 OF 2020

SUMITRA BANERJEE Vs. THE STATE OF WEST BENGAL & OTHERS.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p style="text-align: center;"><u>01</u> 09.11.2020</p>	<p style="text-align: center;"><u>VACATION BENCH</u></p> <p>For the Applicant : Mr.G.P.Banerjee Mr.A.Mitra Advocates</p> <p>For the Respondent : Mr.S.Ghosh Advocate</p> <p>At the very outset Mr.G.P.Banerjee, learned advocate for the applicant, submits that since the matter is urgent, the applicant has served copies of the application on the respondents and affidavit of service to that effect is filed. Let affidavit of service filed be kept on record.</p> <p>In this application, Sumitra Banerjee, the applicant, has prayed for certain reliefs, the relevant portion of which is as under:-</p> <p style="text-align: center;">“ (a) An order do issue there by directing the respondent authorities to give a suitable posting at any Nursing Training School (as Senior Sister Tutor) or College of Nursing (as Senior Faculty) in Kolkata within a stipulated time period.</p>	

ORDER SHEET

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
	<p>(b) An order do issue directing the respondent authorities to dispose of the representation dated 21.10.2020 made before them within a stipulated time period after giving an opportunity of hearing to the applicant herein.</p> <p>(c) An order do issue there by setting aside/quashing the Memorandum no. C/143 dated 06.10.2020 issued by the Director of Health Services, Directorate of Health & Family Welfare, West Bengal immediately.....”</p> <p>It appears that that applicant had joined as Staff Nurse on 3rd August, 2001 under the State of West Bengal. She was promoted as Grade-I(i)b and was detailed to work at “DNS Grade-I(i)b, M.R.Bangur Hospital, Kolkata detailed at College of Nursing, Medical College and Hospital Kolkata.” Thereafter by order dated 1st April, 2020 she was detailed to work at M.R.Bangur Hospital, 24 Paraganas (South) as DNS Grade-I (i)b due to emergency situation.</p>	

ORDER SHEET

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
	<p>It appears that the applicant on 2nd April, 2020 made a representation before the Principal College of Nursing, Medical College and Hospital, Kolkata, for the inconvenience causes about accepting the order dated 1st April, 2020. Ultimately, the applicant on 3rd April, 2020 joined duties. Thereafter the applicant had absented from duties. It appears on 6th April, 2020 the applicant by a letter has given the cause of absence in duties. Subsequently the applicant has submitted several representations which are on record. It appears that the Director of Health Services, West Bengal, the respondent no. 2 had issued a Memorandum dated 6th October, 2020 directing her to resume her duties and to show-cause why disciplinary action should not be taken against her for the absence. On 21st October, 2020, the applicant by a letter addressed to the Superintendent, M.R.Bangur Hospital Kolkata, the respondent no. 5, had requested to allow her to join duties which was granted as evident from Annexure at page 58 of the application. It is submitted by Mr.Banerjee that since the applicant has a three year old child, it is very difficult for her to perform her duties in a Covid-19 designated M.R.Bangur Hospital</p>	

ORDER SHEET

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
	<p>Kolkata and for the said reason a representation dated 21st October, 2020 has been submitted before the Director of Health Services and Deputy Director of Health Services (Nursing), the respondent nos. 2 and 4 respectively which may be directed to be considered sympathetically. Prayer is that in this backdrop, the memorandum dated 6th October, 2020 may be directed to be quashed.</p> <p>Mr.S.Ghosh, learned advocate appearing on behalf of the respondents submits that since the applicant was absent since 3rd April, 2020 and has joined duties on 21st October, 2020, no order may be passed.</p> <p>In reply it is submitted by Mr.Banerjee, that since she has a three year old child, in view of the circumstances as indicated in the several representations, the respondents are directed not to take action pursuant to the Memorandum dated 6th October, 2020, being Annexure-E to the application, and the respondent authorities may be directed to consider the representation sympathetically.</p>	

ORDER SHEET

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
BLR	<p>Having heard learned advocates for the parties and considering the facts and circumstances of the case since we find that the memorandum dated 6th October, 2020 has been issued to the applicant for her absence and as we find subsequently the applicant has resumed her duties, in such circumstances, the application is disposed of by directing the Director of Health Services, West Bengal, Kolkata, the respondent no. 2, to dispose of the representation dated 21st October, 2020 by passing a reasoned order to be communicated to the applicant after giving an opportunity of hearing and after considering the matter sympathetically.</p> <p>Since for circumstances beyond control the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.</p> <p style="text-align: center;">(S.K.DAS) MEMBER (A)</p> <p style="text-align: center;">(SOUMITRA PAL) CHAIRMAN</p>	