

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

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

Case No –OA 123 OF 2017

**DR. SIBANI LAHIRI** Vs The State of West Bengal & Ors.

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>11</p> <hr/> <p>31.07.2018</p>	<p>For the Applicant : Mr. S.N. Ray Mr. G. Halder Learned Advocate</p> <p>For the State Respondent: Mr. S. Ghosh Learned Advocate</p> <p>Though the matter has appeared under the heading “To Be Mentioned”, Mr. S.N. Ray, learned advocate submits that since the order under challenge suffers explicitly from illegality and as the issue stands covered by several judgements of the Tribunal and of the Hon'ble High Court, the matter may be taken up for hearing and be disposed of at this stage. Mr. S. Ghosh, learned advocate for the State respondent in his usual fairness does not oppose the prayer for hearing.</p> <p>The applicant, a Medical Officer, has challenged the memo dated 29<sup>th</sup> August 2016, issued by the Director of Health Services &amp; Ex-Officio Secretary, Department of Health &amp; Family Welfare, West Bengal, whereby the prayer for voluntary retirement of the applicant has been turned down. Prayer is that the order under challenge is without any reason. Submission is that appropriate order</p>	

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	<p>may be passed directing the respondent authorities to consider his representation dated 22<sup>nd</sup> June, 2016, praying for voluntary retirement in terms of Rule 75 [aaa] W.B.S.R. Part-I.</p> <p>Mr. S. Ghosh, learned advocate for the respondent submits that the memo dated 29<sup>th</sup> August 2016, under challenge, issued by the Director of Health Services &amp; Ex-Officio Secretary, Department of Health &amp; Family Welfare, West Bengal, is just and proper.</p> <p>In this application, the applicant has challenged the memo dated 29<sup>th</sup> August 2016, issued by the Director of Health Services &amp; Ex-Officio Secretary, Department of Health &amp; Family Welfare, West Bengal, appearing at page 16 of this application, which is as under :</p> <p style="padding-left: 40px;">“Sub : Regarding Voluntary Retirement.</p> <p style="padding-left: 40px;">The undersigned is hereby directed to inform you that your prayer for Voluntary Retirement is not tenable as per Rule (75 aaaa) of WBSR Part-I.”</p> <p>It is apparent from the order under challenge that it is without any reason and order has been passed mechanically. Therefore, the order under challenge cannot be sustained and hence, it is set aside and quashed. The application is allowed.</p>	

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SCN.	<p style="text-align: center;">So far as the prayer for consideration of the application for voluntary retirement dated 26<sup>th</sup> June, 2016 appearing at page 15 of this application is concerned, considering the facts and circumstances of the case, leave is granted to the applicant to file a representation ventilating his grievances, enclosing copies of relevant documents, before the Principal Secretary, Health and Family Welfare Department, Kolkata, respondent No. 1 within a period of four weeks from the date of obtaining a copy of this order. If such representation is filed before the said respondent No. 1, the said respondent No. 1 shall dispose of the same by passing a reasoned order to be communicated to the applicant within a period of eight weeks after giving an opportunity of hearing and after verifying the records and after considering the judgements if relied on by the applicant. If such representation is filed beyond the stipulated period, the Principal Secretary, Health and Family Welfare Department, Kolkata, respondent No. 1 will not consider the same.</p> <p>(S.K. Das) MEMBER (A)</p> <p style="text-align: right;">(Soumitra Pal) CHAIRMAN</p>	