

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

Hon'ble Justice Soumitra Pal, Hon'ble Chairman &
Hon'ble Dr. Subesh Kumar Das, Administrative Member.

CASE NO. OA 147 of 2020.

DR. KIRAN KUMAR MUKHOPADHYAY –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 style="text-align: center;">5</p> <hr/> <p>7.12.2020.</p>	<p>For the Applicant : Mr. M.N. Roy, Advocate.</p> <p>For the State Respondent : Mr.G.P. Banerjee, Advocate.</p> <p style="text-align: center;">In this application Dr. Kiran Kumar Mukhopadhyay, the applicant has challenged the order dated 17th January, 2020 passed by the Principal Secretary, Department of Health and Family Welfare, Government of West Bengal – respondent no. 2 whereby a reasoned order has been passed rejecting his application for resignation, appearing at page 45 of the application. The said reasoned order was passed pursuant to an order passed on 22nd July, 2019 by the Tribunal on an application, being OA 464 of 2019. It is submitted by Mr. M.N. Roy, learned advocate for the applicant that since the applicant has completed five years of service and was eligible to apply for resignation and as the reasoned order does not spell out from the legal angle why his application has been rejected, the impugned reasoned order may be set aside and quashed. Submission is as the issue has been settled by the law laid</p>	

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	<p>down by the judgement dated 18th February, 2016 passed in Dr. Debarati Chattopadhyay-vs- the State of West Bengal & Ors, upheld by the Supreme Court by order dated 23rd February, 2016, appropriate order may be passed.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondent referring to the order dated 8th September, 2020 submits that since there is shortage of doctors for treatment of COVID-19 patients, no order may be passed at present.</p> <p>Heard learned advocates for the parties.</p> <p>We find that the applicant has fulfilled all the parameters for submitting his letter of resignation. The Tribunal by order dated 22nd July, 2019 passed in OA 464 of 2019 had directed the Additional Chief Secretary, Department of Health and Family Welfare, Government of West Bengal to dispose of the application for resignation, by passing a reasoned order. We find the reasoned order dated 17th January, 2020, is appearing at page 45 of the application. Since we find the application of resignation of the applicant has been rejected without referring to the legal provisions and the law laid down in</p>	

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Skg.	<p>Debarati Chattopadhyay (supra), as directed by the Tribunal, and as we find that the impugned order is cryptic, the same is quashed. The original application is allowed. The Principal Secretary, Department of Health and Family Welfare, Government of West Bengal – respondent no. 2 is directed to issue release order in favour of the applicant and also to take necessary action for release of the financial benefits within four weeks from the date of presentation of a copy of this order/downloaded from the internet/website.</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>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	