

**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 154 of 2019.**

**DR. SUJIT KUMAR SARKAR –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>5</p> <hr/> <p>11.6.2019.</p>	<p>For the Applicant : Mr. M.N. Roy, Advocate.</p> <p>For the State Respondent : Mr. S. Ghosh, Advocate.</p> <p>In this application Dr. Sujit Kumar Sarkar, who joined government service as Medical Officer (Ophthalmology) on 18<sup>th</sup> February, 1986 and who had given formal notice for voluntary retirement on 1<sup>st</sup> October, 2016 and had asked for voluntary retirement on and from 1<sup>st</sup> November, 2016, has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p>“....An order do issue thereby directing the respondent authorities to issue necessary release order in connection to prayer dated 01.08.2016 for Voluntary Retirement from Service within a stipulated time period taking into consideration the letter and spirit of Judgement dated 03.01.2015 delivered in the matter of Dr. Ashok Kumar Maiti &amp; Others-Versus- The State of West Bengal &amp; Others....”.</p> <p>It is submitted by Mr. M.N. Roy, learned</p>	

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	<p>advocate for the applicant that since the applicant has completed more than thirty years of service and is more than fifty years of age and as no disciplinary proceeding is pending against him, which are the preconditions for acceptance of voluntary retirement, the action of the respondents in not disposing of the prayer for voluntary retirement is unjust and illegal. Relying on the judgement passed by the Tribunal on 3<sup>rd</sup> January, 2017 in OA 346 of 2015 (Dr. Ashok Kumar Maiti &amp; Ors-versus- State of West Bengal &amp; Others), particularly the law laid down in paragraph 36 thereof, it is submitted that since the right to voluntary retirement has already accrued before the insertion of the rule 75 (aaaa) of the West Bengal Service Rules Part-I on 7<sup>th</sup> February, 2014 , appropriate order may be passed.</p> <p>Mr. S. Ghosh, learned advocate for the State Respondent submits that though the issue has been decided by the Tribunal in Dr. Ashok Kumar Maiti (supra), however he has received no instruction from his clients.</p> <p>Having heard Mr. Roy and Mr. Ghosh and considering the fact that the applicant has filed an application for voluntary retirement on 1<sup>st</sup> August, 2016 ,</p>	

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Skg.	<p>this application is disposed of by directing the Additional Chief Secretary, Department of Health and Family Welfare , Government of West Bengal – the respondent no 1, to dispose of the application for voluntary retirement of the applicant by passing a reasoned order to be communicated to the parties, within twelve weeks from the date of presentation of a copy of this order, after considering the judgement passed in Dr. Ashok Kumar Maiti (supra) and after giving an opportunity of hearing to the applicant.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	