

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 162 of 2019.

DR. UTPAL KANTI JANA -Vs- THE STATE OF W.B. & 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 |
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| <p>4 8.4.2019.</p> | <p>For the Applicant : Mr. G.P. Banerjee , Advocate.</p> <p>For the State Respondent : None.</p> <p>Let affidavit of service filed today be kept on record. Despite service of notice, none appears on behalf of the respondents.</p> <p>At the very outset, it is submitted by Mr. G.P. Banerjee, learned advocate for the applicant, that the issue in the instant original application is covered by the order dated 14th August, 2018 passed in OA 794 of 2016 (Dr. Binayak Roy –Vs- State of West Bengal & Ors). It is further submitted that though the matter has appeared for the first time as “Admission Hearing”, since the issue has already been settled, the matter may be taken up and disposed of.</p> <p>In this application, the applicant, who had joined on 13th May, 1994 as Medical Officer at Kharikamathani BPHC, Paschim Medinipur and who had submitted his application for voluntary retirement on 20th June, 2016 before the Director of Health Services,</p> | |

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| | <p>Department of Health and Family Welfare, Government of West Bengal, – the respondent no. 2, has prayed for a direction upon the State respondents to accept his representation for voluntary retirement dated 20th June, 2016, being annexure ‘A’ to the application after setting aside the order contained in the memo dated 14th September, 2016 communicated by the Deputy Director of Health Services (Administration) , Government of West Bengal, being annexure ‘B’ to the application since the applicant has completed twenty years of regular service on 12th May, 2014 and has completed his fifty years of age on 3rd October, 2015 and as the issue is covered by the judgement passed by the Tribunal in OA 346 of 2015 (Dr. Ashok Kumar Maiti & Ors –Vs- State of West Bengal) delivered on 3rd January, 2017 and the judgement of the Hon’ble High Court in W.P.S.T. 26 of 2015 (State of West Bengal and Others –Vs- Dr. Sraban Kumar Ghosh) passed on 2nd February, 2015 and as the SLP filed by the State authorities before the Hon’ble Supreme Court was dismissed on 26th October, 2015.</p> | |

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| | <p>Since we find that the issue is covered by the judgement passed on 3rd January, 2017 in OA 346 of 2015 (Dr. Ashok Kumar Maiti & Ors –Vs- State of West Bengal) , the impugned order contained in the memo dated 14th September, 2016 appearing at page 13 of the application cannot be sustained and is thus set aside and quashed. The original application is allowed. Accordingly, the Additional Chief Secretary, Department of Health and Family Welfare, Government of West Bengal, – the respondent No. 1, is directed to take a decision afresh on the representation dated 20th June, 2016 praying for voluntary retirement by passing a reasoned order to be communicated to the applicant within twelve weeks from the date of presentation of a copy of the certified copy of this order after giving an opportunity of hearing to the applicant and after taking into consideration the judgement delivered on 3rd January, 2017 in OA 346 of 2015 and the judgement passed by the High Court on 2nd February, 2015 in W.P.S.T. 26 of 2015 (State of West Bengal and Others –Vs- Dr. Sraban Kumar Ghosh) as well</p> | |

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| Skg. | <p>as the order passed by the Hon'ble Supreme Court. No order as to cost.</p> <p>(Subesh Kumar Das) Member(A).</p> <p>(Soumitra Pal) Chairman.</p> | |

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