

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-302 OF 2019**DR SUMIT SANYAL 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;"><u>02</u> 23.04.19</p>	<p>For the Applicant : Mr.S.N.Ray Mr.G.Halder Mr.R.K.Mondal Advocates</p> <p>For the Respondents : Mr.G.P.Banerjee Advocate</p> <p>Affidavit of service filed today be kept on record.</p> <p>In this application, the applicant has prayed for certain reliefs, the relevant portion of which is as under:</p> <p><i>(a) An order do issue directing the concerned respondent authorities to forthwith issue release order in favour of the applicant after accepting his resignation letter, so made by him on 06.03.2019 before the Additional Chief Secretary, Department of Health & Family Welfare, West Bengal as well as before the Director of Medical Education, Health & Family Welfare Department, Government of West Bengal.</i></p>	

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	<p>(b) <i>An order do issue directing the concerned respondent authorities to forthwith issue "Release Order" in favour of your applicant without causing any further delay, so as to enable your applicant to choose his profession accordingly".</i></p> <p>The facts are that the applicant belonging to the West Bengal Medical Education Service had joined as R.M.O.-CUM-Clinical Tutor in the department of General Surgery at R.G.Kar Medical College, Kolkata on 30th November, 2004. It appears that the applicant was subsequently transferred to IPGME&R, Kolkata on 29th May, 2006 and thereafter he has been promoted to the post of Assistant Professor in the discipline of Surgical Gastroenterology at IPGME&R, Kolkata on 19th January, 2011. Thereafter the applicant was promoted as Associate Professor in Surgical Gastroenterology at SDLD, IPGME&R, Kolkata under the Professor and Head of the Department, Department of Surgical Gastroenterology at SDLD, IPGME&R, Kolkata, Government of West Bengal. Subsequently the applicant had participated in the selection process for the post of Additional Professor in the Department of GI Surgery at AIIMS, Rishikesh</p>	

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	<p>and was offered appointment on contractual basis by letter dated 27th February, 2019 as evident from Annexure-E to the Original application. Thereafter, the applicant had submitted his letter of resignation dated 6th March, 2019 along with 13 point query in respect of his resignation, as evident from pages 32 to 36 of the application, before the State respondents. It is submitted by Mr.M.N.Roy, learned advocate for the applicant that since the notice period of one month has expired on 5th March, 2019, the respondent authorities should have accepted the letter of resignation. In support of his submission reliance has been placed on an unreported judgement delivered on 18th February, 2016 passed in W.P.S.T 22 of 2016 (Dr.Debabrati Chattopadhyay Vs. The State of West Bengal & Ors.).</p> <p>Mr.G.P.Banerjee, learned advocate for the respondent submits that under the law the applicant, before participating in the selection process for the post of Additional Professor in the Department of GI Surgery at AIIMS, Rishikesh, should have taken no objection from the authority or at least should have intimated the state authority. Not having done so, the applicant is not entitled to the order as prayed for.</p>	

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BLR	<p>Thus, the issue is different from the facts contained in the judgement passed in Dr. Debabrati Chattopadhyay (supra).</p> <p>Having heard Mr. Roy and Mr. Banerjee and considering the facts and circumstances of this case, the original application is disposed of by directing the Additional Chief Secretary, Department of Health & Family Welfare, Kolkata, the Respondent No. 1 to dispose of the letter of resignation dated 6th March, 2019 accompanied by the declaration dated 6th March, 2019 by passing a reasoned order to be communicated to the parties within 8 weeks from the date of presentation of a copy of this order after giving an opportunity of hearing and after verifying the records and after considering the judgement passed in Dr. Debabrati Chattopadhyay (supra) as well as the relevant rules.</p> <p style="text-align: center;">(S.K.DAS) MEMBER (A)</p> <p style="text-align: center;">(SOUMITRA PAL) CHAIRMAN</p>	