

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- 456 OF 2018**DR. SHASWATI SENGUPTA (DATTA) Vs. STATE OF WEST BENGAL & OTHERS.**

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>8</u> <u>24 .09.2019</u></p>	<p>For the Applicant : Mr. S. Ghosh, Mr. A. Mitra, Advocates</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. R.A. Chowdhury, Advocate</p> <p>For the Advocate General : Mr. A. L. Basu, West Bengal : Mr. S. Bhattacharya, Advocates</p> <p style="text-align: center;">In this application, Dr. Shaswati Sengupta (Datta), the applicant, who had joined West Bengal Medical Education Service on 14th December, 2012 as R.M.O.-CUM- Clinical Tutor, Department of ENT and posted at R.G. Kar Medical College, Kolkata, has challenged the order dated 23rd October 2017 whereby her prayer for resignation has been rejected by the Director of Medical Education & Ex-Officio Secretary to the Government of West Bengal, the respondent no.3, appearing at page 27 of the Original Application, the relevant portion of which is as under:</p> <p style="text-align: center;">“With reference to the above, this is to inform you that, an amendment has recently been made in</p>	

ORDER SHEET

Form No.

.....

Vs.

The State of West Bengal & Ors.

Case No.

.....

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>sub rule (1) of rule 34A of West Bengal Service Rules, Part-I, 1971, vide Finance (Audit) Notification No.4499-F(P) dated 26.08.2016, which reads as follows:</p> <p>“.....provided that the provision under this sub rule shall not be applicable in respect of the officers in the cadre of the West Bengal Health Service, West Bengal Medical Education Services, the West Bengal Public Health cum Administrative Service, the West Bengal Dental Service and the West Bengal Dental Education Service, prior to completion of a period of at least five years of continuous service with effect from the date of joining, in any of such cadre or in different cadres taken together, as the case may be.”</p> <p>Since you have not completed 5 years’ of service yet, you prayer for accepting resignation from service cannot be entertained at present.</p>	

ORDER SHEET

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No.

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;">You are directed to resume your duty immediately.”</p> <p>At the very outset, Mr. S. Ghosh, learned advocate for the applicant submits that he is not pressing the prayer (a), (b) and (d) of the application. Submission is since in a similar situation an order has been issued on 22nd May, 2019 by the Special Secretary to the Government of West Bengal acceding to the prayer of Dr. Santanu Sarkar, an Assistant Professor, and since in the meantime the applicant has completed five years of service, appropriate order may be passed.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on the behalf of the State respondents submits that if directed the Director of Medical Education & Ex-Officio Secretary, Department of Health & Family Welfare, Government of West Bengal, the respondent No. 3 will consider the letter of resignation in accordance with law.</p> <p>Mr. A. L. Basu, learned advocate for the Advocate General, West Bengal submits that since the applicant does not press prayer (a), (b) and (d) of the application, he is not opposing the prayer for consideration of the letter of</p>	

ORDER SHEET

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No.

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
SCN.	<p>resignation.</p> <p>Having heard Mr. Ghosh, Mr. Banerjee and Mr. Basu, learned advocates for the parties and considering the facts and circumstances of the case, the Original Application is disposed of by directing the Director of Medical Education & Ex-Officio Secretary, Department of Health & Family Welfare, Government of West Bengal, Kolkata, the respondent no.3 to reconsider the letter of resignation dated 24th April, 2017, being Annexure "B" to the application and also the reminder dated 2nd August, 2017, since in the meantime the applicant has completed five years of service, by passing a reasoned order to be communicated to the parties within 12 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 judgements and orders which may be relied on by the applicant.</p> <p>(S.K.DAS) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	