

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 478 of 2019.

DR. SOMAK KRISHNA BISWAS – VERSUS- 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;">6</p> <hr/> <p>19.11.2019.</p>	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Advocates.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Advocate.</p> <p>For the Advocate General West Bengal : Mr. A.L. Basu, Mr. S. Bhattacharjee, Advocates.</p> <p style="text-align: center;">Leave granted to the applicant to file supplementary affidavit. Let supplementary affidavit filed by Mr. M.N. Roy, learned advocate for the applicant, be kept on record. Let copies of the supplementary affidavit be served on Mr. A.L. Basu, learned advocate for the learned Advocate General, West Bengal and Mr. G.P. Banerjee, learned advocate for the State respondents, which are served and accepted.</p> <p style="text-align: center;">The facts in this application are the applicant had joined the West Bengal Medical Education Service on 3rd November, 2015 as Assistant Professor, Department of Paediatric Surgery and was posted at NRS Medical College & Hospital, Kolkata. It appears that he had tendered his resignation on 28th September, 2018 before the Director of Medical Education & Ex-officio Secretary,</p>	

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	<p>Department of Health and Family Welfare, Government of West Bengal, the respondent no. 3, along with thirteen point declaration. It has been alleged as even after tendering his resignation, the respondents have not responded, this application has been filed praying for certain reliefs, the relevant portion of which is as under:-</p> <p style="text-align: center;"><i>“.....(a) An order do issue directing the concerned respondent authorities to forthwith issue release order in favour of the applicant consequent to his resignation letter, so made by him on 28.09.2018 before the Director of Medical Education & Ex-officio Secretary, Department of Health & Family Welfare, Government of West Bengal, thorough proper channel, and subsequent reminders within a stipulated time period.</i></p> <p style="text-align: center;"><i>(b) An order do issue directing the concerned respondent authorities to forthwith issue “Release Order” by accepting his resignation letter dated 28.09.2018 without causing any further delay.</i></p> <p style="text-align: center;"><i>(c) An order do issue thereby quashing and/or setting aside the Finance (Audit) Notification No. 4499-F(P) dated 26.08.2016 declaring the same to be ultra -vires to the Constitution of India....”.</i></p>	

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	<p>Evidently the amendment of sub rule 1 of rule 34A of the West Bengal Service Rules, Part-I, 1971 vide Finance (Audit) Department Notification No. 4499-F(P) dated 26th August, 2016 has been challenged. It is submitted by Mr. M.N. Roy, that though the prayers, as noted, have been made, however, for the present, his client prays for leave to withdraw the application challenging the inaction of the respondents and challenge to the vires of the amended rule and prays for leave to file representation ventilating his grievances before the State authorities for consideration.</p> <p>Mr. A.L. Basu submits that he does not oppose the prayer if the applicant for the present gives up the challenge to the amendment of the rules as he intends to file representation ventilating his grievances before the State authorities.</p> <p>Such submission is adopted by Mr. G.P. Banerjee.</p> <p>Since it is submitted by Mr. Roy that his client for the present is giving up the challenge to the amendment of the rules, considering such fact, as prayed for on behalf of the applicant, the application is disposed</p>	

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Skg.	<p>of by granting liberty to the applicant to file representation ventilating his grievances before the Director of Medical Education & Ex-officio Secretary, Department of Health & Family Welfare, Government of West Bengal, Kolkata, – the respondent no. 3, within eight weeks from the date of obtaining a copy of this order. If such representation is filed before the respondent no. 3 within the time as stipulated, the said respondent shall dispose of the same by passing a reasoned order to be communicated to the parties within eight weeks after giving an opportunity of hearing and after verifying the records, including documents furnished by the applicant.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	