

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 65 of 2019.

DHYANOTOSH 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;">8</p> <hr/> <p>25.11.2019.</p>	<p>For the Applicant : Mr. A. Hati, Ms. P. Roy Mishra, Advocates.</p> <p>For the State Respondent : Mr. S. Ghosh, Advocate.</p> <p>In this application, the applicant, who had joined as Medical Officer under West Bengal Health Services on 20th March, 1989 has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p style="padding-left: 40px;"><i>“i) To set aside/quash/rescind the impugned order dated 11.12.2018 passed by Additional Chief Secretary Dept of Health Family Welfare, West Bengal.</i></p> <p style="padding-left: 40px;"><i>ii) An order do issue by directing the respondent authorities to grant voluntary retirement in favour of the applicant as per the observation made in judgement dated 03.01.2017 w.e.f. 31.07.2017(A.N.).</i></p> <p style="padding-left: 40px;"><i>iii) An order do issue by directing The Medical Superintendent cum Vice Principal, Murshidabad Medical College & Hospital, Murshidabad to release from charge and delete the name of applicant from the duty roster...”.</i></p> <p>It appears that the applicant had filed an</p>	

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	<p>application for voluntary retirement on 25th April, 2017 along with proforma, being annexure Q, appearing at pages 16 to 18 of the application. Mr. A. Hati, learned advocate appearing on behalf of the applicant submits that as the applicant was born on 1st January, 1956 and had completed fifty years of age and twenty years of service in 2009, the impugned order passed by the authorities, relying on the Government notification dated 7th February, 2014 issued by the Finance Department (Audit Branch), Government of West Bengal amending the rule 75(aaa) and inserting rule 75(aaaa) is not applicable.</p> <p>Mr. S. Ghosh, learned advocate for the State respondent submits that the action of the respondent is just and proper.</p> <p>Heard learned advocates for the parties.</p> <p>Since we find that on the date of notification dated 7th February, 2014 issued by the Finance Department (Audit Branch), Government of West Bengal, the applicant had already attained the age of fifty years and had performed more than twenty years of service and thus, right has already accrued in favour of the applicant under rule 75(aaa), the amended rule 75(aaaa)</p>	

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Skg.	<p>is not applicable. Be it mentioned that a right accrued cannot be divested in the manner it has been done. Therefore, the impugned order appearing at page 64, being annexure "R" to the original application, be set aside and quashed. The application is allowed. Accordingly, the Director of Health Services, Department of Health and Family Welfare, Government of West Bengal, - the respondent no. 2 is directed to pass necessary order granting voluntary retirement in favour of the applicant within fifteen weeks from the date of presentation of a copy of this order and consequently all retiral benefits shall be disbursed in accordance with law within the said period.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	