

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 – 877 OF 2017****AMIT BANERJEE Vs. THE STATE OF WEST BENGAL**

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>07</u> 11.12.18</p>	<p>For the Applicant : Mr.A.Banerjee (In person)</p> <p>For the Respondent : Mr.S.Ghosh Advocate</p> <p>For the Advocate General : Mr.A.L.Basu West Bengal Advocate</p> <p>In this application, the applicant has challenged the reasoned order dated 5th September, 2013 passed by the Secretary, Judicial Department, Government of West Bengal which was pursuant to the directions contained in the order dated 27th June, 2013 passed in OA- 1348 of 2012. The applicant appearing in person submits that since his resignation letter was never accepted, he is entitled to be reinstated. It is submitted that since in view of the principles of law laid down in the judgements of the Supreme Court that unless he is formally relieved of his duties the letter of resignation is deemed not to have been accepted, the order under challenge cannot be sustained.</p> <p>It is submitted by Mr.A.L.Basu, learned advocate for the Advocate General that since the Supreme Court judgments are not related to the interpretation of the</p>	

ORDER SHEET**AMIT BANERJEE**

Form No.

Vs.**THE STATE OF WEST BENGAL & ORS.**Case No. **OA - 877 OF 2017**

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>provisions of WBSR Part -I, particularly Rule 34 A thereof, the order under challenge is just and proper. Submission is even the letter withdrawing the letter of resignation was submitted on 25th March, 2010 which was after the notice period.</p> <p>Mr.S.Ghosh, learned advocate for the State respondent adopts the submission of Mr.A.L.Basu.</p> <p>Heard learned advocates for the parties.</p> <p>In order to decide the issue it is necessary to refer to the letter dated 8th January, 2010 sent by the applicant being Annexure-C, to the application, the relevant portion of which is as under:-</p> <p>"</p> <p><i>Through: The District Magistrate Paschim Medinipur, West Bengal</i></p> <p><i>Attention: 1) The Secretary Judicial Department Government of West Bengal Writer's Buildings Kolkata 700 001</i></p> <p><i>2) The District Magistrate, Paschim Medinipur West Bengal.</i></p> <p><i>Sub: Tendering my resignation with effect from 08/01/2010.</i></p>	

ORDER SHEET**AMIT BANERJEE**

Form No.

Vs.**THE STATE OF WEST BENGAL & ORS.**Case No. **OA - 877 OF 2017**

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><i>Sir,</i></p> <p><i>Most respectfully I beg to state that I joined the post of Assistant Public Prosecutor West Bengal (General Service) on 26th May, 2008 being appointed by the Governor of West Bengal.</i></p> <p><i>Due to personal reasons I tender this letter of resignation with effect from today viz 08/01/2010. (afternoon).</i></p> <p><i>I have been in this government service for less than 3 years and as such have not been informed about my permanency. Hence, as per Service Conduct Rules for government employees in the State of West Bengal, I am submitting this letter of resignation as temporary service holder and I hope that the same will be received within a month.</i></p> <p><i>I shall join my professional life once again after the expiry of the second week of February, 2010 and according I am contemplating sending intimation to the Bar Council of West Bengal in this regard shortly.</i></p> <p><i>Hope you would be kind enough to do the needful.....”.</i></p> <p><i>Now let the relevant portion of the impugned order dated 5th September, 2013 be taken note of which is as under:-</i></p> <p><i>“It should be noted that the petitioner himself submitted</i></p>	

ORDER SHEET**AMIT BANERJEE**

Form No.

Vs.**THE STATE OF WEST BENGAL & ORS.**Case No. **OA - 877 OF 2017**

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><i>in his resignation letter that he being a temporary employee is not abide by the Rule of Notice in Rule 34 A WBSR Part-I as quoted earlier.</i></p> <p><i>No formal notice of resignation had been tendered by the petitioner. In first part of the resignation letter the petitioner expressed that the prayer for resignation should take immediate effect. But in the latter part of the letter it is mentioned that it should take effect after second week of February, 2010 and the petitioner in his letter of resignation expressed that he wanted to join in his earlier occupation i.e. practicing law in the court and that was the reason of his resignation.</i></p> <p><i>Now, let the resignation letter of the petitioner dated 08.01.2010 be treated as a notice for resignation.</i></p> <p><i>A letter of resignation can be withdrawn only before the period of notice does expire and once the period of notice expires the resignation letter becomes irrevocable. It should be further mentioned that after submitting resignation letter the petitioner never joined in his office and for such reasons his salary had been stopped. It should be further mentioned that the petitioner by a separate application dated 15.02.2010 issued a reminder for the acceptance of his resignation letter.</i></p> <p><i>The Note of Rule 34 A of the WBSR Part-I clearly</i></p>	

ORDER SHEET**AMIT BANERJEE**

Form No.

Vs.**THE STATE OF WEST BENGAL & ORS.**Case No. **OA - 877 OF 2017**

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><i>says that a letter of resignation may be withdrawn only during the period of notice and once the resignation takes effect it becomes irrevocable and operative after the date of resignation. As mentioned earlier the petitioner in his resignation letter stated that his resignation should take effect immediately and alternatively after second week of February, 2010. The petitioner submitted his application for withdrawal of his resignation on 25.03.2010 i.e. long after his resignation took effect according to his own prayer.</i></p> <p><i>That being so, the petitioner's application for withdrawal of his resignation letter was not valid in law. The decision of the Hon'ble Apex Court submitted by the petitioner in support of his case relate to voluntary retirement which is entirely different from resignation.</i></p> <p><i>The petitioner in his application for resignation mentioned that he wanted to resume his practicing in law and during hearing the petitioner had not submitted that he had not taken up any occupation after the prayer for resignation.</i></p> <p><i>So, from what has been discussed above, it is clear that the petitioner has no legal right to withdraw his prayer for resignation by his letter dated 08.01.2010 and such prayer for withdrawal of his letter of resignation is not permissible in law. In consequence the petitioner's resignation letter dated</i></p>	

ORDER SHEET**AMIT BANERJEE**

Form No.

Vs.**THE STATE OF WEST BENGAL & ORS.**Case No. **OA - 877 OF 2017**

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
BLR	<p><i>08.01.2010 stands automatically accepted. Petitioner's present prayer is therefore rejected".</i></p> <p>Since we find that the applicant had consciously submitted the letter of resignation intimating that it should take effect from 8th January, 2010 (afternoon) and as the reasoned order, under challenge, referring to Rule 34 A of WBSR Part-I deals with the letter of resignation dated 8th January, 2010 very meticulously, the order under challenge requires no interference. In this context, it is also to be noted that the applicant has sent a letter dated 25th March, 2010 withdrawing his resignation which was much after the expiry of the notice period of one month. Hence, no order is passed on the application. The application is disposed of.</p> <p style="text-align: center;">(S.K.DAS) MEMBER(A)</p> <p style="text-align: center;">(SOUMITRA PAL) CHAIRMAN</p>	