

**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 897 of 2018.**

DR. SOUMI MAITI – 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>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 that the applicant had joined the West Bengal Medical Education Service on 19<sup>th</sup> August, 2015 as RMO-cum-clinical Tutor and was posted at RG Kar Medical College and Hospital, Kolkata. Thereafter, she was transferred to Burdwan Medical College and Hospital as Assistant Professor,</p>	

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	<p>Department of Anaesthesiology. It appears that she had tendered her resignation on 10<sup>th</sup> October, 2018 before the Director of Medical Education &amp; Ex-officio Secretary, 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 her 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="padding-left: 40px;"><i>“a) ...An order do issue directing the concerned respondent authorities to forthwith issue release order in favour of the applicant consequent to her resignation letter, so made by her on 10.10.2018 before the Additional Chief Secretary as well as the Director of Medical Education &amp; Ex-officio Secretary, Department of Health &amp; Family Welfare, Government of West Bengal, through proper channel, within a stipulated time period.</i></p> <p style="padding-left: 40px;"><i>c) An order do issue directing the concerned respondent authorities to forthwith issue “Release Order” by accepting her resignation letter dated 10.10.2018 without causing any further delay.</i></p> <p style="padding-left: 40px;"><i>d) An order do issue thereby quashing and/or setting aside the Finance (Audit) Notification No.</i></p>	

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	<p><i>4499-F(P) dated 26.08.2016 declaring the same to be ultra vires to the Constitution of India....”.</i></p> <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 26<sup>th</sup> 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 her 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 she intends to file representation ventilating her 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</p>	

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Skg.	<p>for on behalf of the applicant, the application is disposed of by granting liberty to the applicant to file representation ventilating her grievances before the Director of Medical Education &amp; Ex-officio Secretary, Department of Health &amp; 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>	