

ORDER SHEET
West Bengal Administrative Tribunal

Present.-
The Hon'ble Justice Ranjit Kumar Bag,
&
The Hon'ble Dr. Subesh Kumar Das

Case No. OA 979 of 2019

Dr. Kaustav Chatterjee

Versus

The State of West Bengal & Ors.

Serial No. and date of order	Order of the Tribunal with signature	Office action with date and dated signature of parties when necessary.
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04 <u>06/02/2020</u>	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p>For the State Respondent : Mr. S. Ghosh, Learned Advocate.</p> <p style="text-align: center;">Affidavit of Service filed on behalf of the applicant is kept on record.</p> <p style="text-align: center;">The applicant has prayed for direction upon the respondents for regularisation of absence of the applicant from duty w.e.f. October 07, 2015 till date. The applicant has also prayed for direction upon the respondents to permit the applicant to resume duty as Medical Officer immediately under Respondent No. 4, Superintendent, Durgapur Sub-Divisional Hospital.</p> <p style="text-align: center;">It appears from the materials on record that the applicant was appointed on transfer as Medical Officer of Durgapur Sub-Divisional Hospital by notification dated January 22, 2014 issued in the name of the Governor by the Joint Secretary to the Government of West Bengal, Department of Health & Family Welfare. The contention of the applicant is that he joined as Medical Officer of Durgapur Sub-Divisional Hospital on March 27, 2014 and discharged his duty till October 06, 2015. It is further contended by the applicant that he was absent</p>	

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	<p>from duty due to an accident in the residence and he could not attend the hospital on medical advice from October 07, 2015 to April 01, 2016. It is also contended that the applicant was declared medically fit to resume duty on April 01, 2016, but he was not permitted to resume duty initially by the Chief Medical Officer of Health, Asansol Health District on April 04, 2016 and subsequently by the Superintendent of Sub-Divisional Hospital at Durgapur on April 07, 2016. The applicant submitted a representation before the Respondent No. 2, Director of Health Services, Government of West Bengal through proper channel on July 29, 2019 praying for permission to resume duty as Medical Officer of Durgapur Sub-Divisional Hospital after regularisation of his absence from duty, but the said representation has not yet been considered by the concerned respondent.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant was absent from duty from October 07, 2015 till date. What transpires from the materials on record is that the applicant was initially absent from duty on medical ground but ultimately he was not permitted to resume duty as Medical Officer of Sub-Divisional Hospital at Durgapur w.e.f. April 04, 2016 till date. Under the above circumstances, the leave sanctioning authority should consider under what</p>	

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	<p>circumstances the applicant was absent from duty and grant any kind of leave which is available in the credit to the applicant like Earned Leave, Commuted Leave, Extraordinary Leave without pay for the purpose of regularisation of his absence from duty. Since no disciplinary action has yet been initiated against the applicant for his absence from duty, the appointing authority is duty bound to give posting of the applicant on consideration of permanent nature of his service. The applicant cannot be deprived of his posting as Medical Officer in West Bengal Health Services at this stage.</p> <p>In view of our above observations, we direct the Respondent No. 2, Director of Health Services, Government of West Bengal to consider the representation submitted by the applicant through proper channel on July 29, 2019 (page no. 20 of the original application) for the purpose of regularisation of his absence from duty during the period from October 07, 2015 till the date preceding the date of joining back in service by grant of any kind of leave to the credit of the applicant and thereafter by grant of Extraordinary Leave without pay by passing a reasoned order after giving the applicant an opportunity of hearing within a period of 08 (eight) weeks from the date of communication of the order. The said Respondent No. 2 is further directed to take necessary steps for joining of</p>	

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Csm	<p>the applicant as Medical Officer of West Bengal Health Services within a period of 08 (eight) weeks from the date of the order. The Respondent No. 2 will take necessary approval of the Principal Secretary to the Government of West Bengal, Department of Health & Family Welfare, if required, for passing the above reasoned order and issuance of order of posting of the applicant as Medical Officer of West Bengal Health Services. With the above direction, the original application stands disposed of.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p>S.K. DAS MEMBER(A)</p> <p>R.K. BAG MEMBER(J)</p>	