

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Justice Soumitra Pal,
& The Hon'ble Dr. Subesh Kumar Das.

Case No –OA-120 of 2019.

Dr. Asim Kumar Mondal. –Vs- The State of West Bengal & Others.

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>2</u> 11.03.2019.</p>	<p>For the Applicant : Mr. Soumendra Narayan Ray, Advocate.</p> <p>For the Respondents : Mr. Sankha Ghosh, Advocate.</p> <p>For the Principal Accountant : Mr. Biswanath Mitra, General (A&E), West Bengal. Departmental Representative.</p> <p>Affidavit of service filed today be kept on record.</p> <p>In this application the applicant, a Medical Officer in the West Bengal Health Services and last posted at Vidyasagar S G Hospital, Behala, Kolkata as Senior MO (Gynaecologist), has prayed for a direction upon the respondent authorities to implement the order passed by the Tribunal on 16th March, 2017 in OA-1060 of 2016 : Asim Kumar Mondal-Vs-State of West Bengal and Others. It is submitted by Mr. Soumendra Narayan Ray, learned advocate for the applicant that since such direction is permissible in accordance with the settled principles of law, appropriate order may be passed upon the authorities directing them to consider his application for voluntary retirement under Rule 75 (aaa) of WBSR Part-I submitted on 30th June, 2014 before the Director</p>	

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	<p>of Health Services, Government of West Bengal - the respondent no.-2.</p> <p>Mr. Sankha Ghosh, learned advocate for the state respondents submits that though he is not opposing the prayer for a direction upon the respondent authorities for implementing the order passed on 16th March, 2017 in OA-1060 of 2016, however, it is evident that the order dated 9th September, 2016 was set aside by the said order of the Tribunal.</p> <p>Heard Mr. Ray and Mr. Ghosh, learned advocates for the parties.</p> <p>Before we proceed with the matter, it is appropriate to set out the relevant portion of the said order passed on 16th March, 2017 which is as under :-</p> <p style="text-align: center;"><i>"In this Application, Memo No. 1A-219-2016/A 5055 Dated 09.09.2016 issued by the Director of Health Services, Government of West Bengal addressed to the Applicant Dr. Asim Kumar Mondal whereby his prayer for voluntary retirement was not accepted has been challenged.</i></p> <p style="text-align: center;"><i>Shri Banerjee, Learned Advocate appearing for the Applicant has placed</i></p>	

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	<p><i>an earlier decision of the Tribunal in the case of Shri Ashok Kumar Maiti and others Vs. State of West Bengal and others in OA No. 346 of 2015 whereby the issue in respect of prayer for voluntary retirement has already been considered.</i></p> <p><i>We have ascertained it from Shri Ghosh, Learned Advocate for Health Department that the aforesaid Order in the case of Shri Ashok Kumar Maiti has not been assailed before a Higher Forum.</i></p> <p><i>In such view of the matter, the Memo No. 1A-219-2016/A 5055 Dated 09.09.2016 is set aside and Director of Health Services is requested to reconsider his decision in the light of the Judgment Dated 03.01.2017 in the case of Dr. Ashok Kumar Maiti in OA No. 346 of 2015.</i></p> <p><i>The directions passed by the Tribunal be complied with within a period of 4 months from the date of</i></p>	

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Sourav	<p style="text-align: center;"><i>communication of this Order.</i></p> <p style="text-align: center;">....."</p> <p>Since we find that the applicant has already filed an application for voluntary retirement under Rule 75 (aaa) of WBSR Part-I on 30th June, 2014, considering the facts and circumstances of the case, this application is disposed of by directing the Director of Health Services, Government of West Bengal - the respondent no.-2 to implement the order dated 16th March, 2017 passed in OA-1060 of 2016 within a period of four months from the date of communication of this order after giving an opportunity of hearing.</p> <p style="text-align: center;">(DR. SUBESH KUMAR DAS) MEMBER (A)</p> <p style="text-align: center;">(SOUMITRA PAL) CHAIRMAN</p>	