

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 – 213 OF 2020

DR. ANINDYA CHAKRABORTY 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>01</u> 22.06.2020</p>	<p>For the Applicant : Mr.A.Samanta Advocate</p> <p>For the Respondent : Mr.G.P.Banerjee Advocate</p> <p style="text-align: center;">Affidavit of service filed today be kept on record.</p> <p style="text-align: center;">The Registry is directed to change the Code number from 1 to 4.</p> <p style="text-align: center;">In this application, the applicant, Dr.Anindya Chakraborty, Assistant Professor, Department of Radiotherapy, College of Medicine & Sagore Dutta Hospital, Kamarhati under the Department of Health and Family Welfare, Government of West Bengal has challenged the order of transfer dated 24th February, 2020 transferring him to Murshidabad Medical College & Hospital, Berhampore on several grounds. Challenge has also been made to vires of Regulation 75 (aaaa) of WBSR Part I and to declare to Rule 10 of West Bengal Administrative Tribunal (Procedure) Rules, 1994 regarding bar on plurality of prayers to be in violation of the Administrative Tribunals Act, 1985.</p>	

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	<p>Mr.S.Samanta, learned advocate appearing on behalf of the applicant at the very outset submits on instruction from his client who is present in the Tribunal that he has given up his prayer for quashing and/ or setting aside Regulation 75 (aaaa) of WBSR Part I and for striking down declaring the West Bengal Administrative Tribunals (Procedure) Rules, 1994 regarding bar on plurality of prayer to be in violation of Administrative Tribunals Act, 1985. Prayer is, on instruction, that the application for voluntary retirement be converted into the prayer for resignation and till it is considered by the respondents the order of transfer dated 24th February, 2020 be kept in abeyance.</p> <p>Mr.G.P.Banerjee, learned advocate appearing for the State respondents submits on instruction that admittedly the application for voluntary retirement, dated 1st April, 2019, being Annexure-A1 to the application, was not accepted which is evident from the memo dated 1st August, 2019, being annexure A2 to the application. Therefore, the prayer for conversion of the application for voluntary retirement into the</p>	

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	<p>prayer for resignation cannot be accepted. Moreover, the procedure for voluntary retirement and procedure for resignation are guided by different set of rules.</p> <p>In reply, Mr.Samanta submits that for the ends of justice the respondent authorities may be directed to consider the representation dated 10th March, 2020 and any application made by the applicant for resignation and till it is considered the order of transfer may be kept in abeyance.</p> <p>Heard learned advocates for the parties. Since Mr.Samanta, has submitted on instruction from his client that he has given up prayer for setting aside the Regulation 75 (aaaa) of WBSR Part I as ultra vires the Constitution of India and for declaring Rule 10 of the West Bengal Administrative Tribunal (Procedure) Rules, 1994 regarding bar on plurality of prayers to be in violation of the Administrative Tribunals Act, 1985, no order is passed with regard to such prayers. It is evident from the Annexure-A2 that the respondent authorities by memo dated 1st August, 2019 had conveyed to the applicant that his application for voluntary retirement was not accepted. Since the</p>	

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BLR	<p>challenge to Regulation 75 (aaaa) of WBSR Part I and Rule 10 of the West Bengal Administrative Tribunal (Procedure) Rules, 1994 has been withdrawn and as we find that the respondents did not accept the prayer for voluntary retirement, the prayer for consideration of the representation dated 11th March, 2020 renewing the prayer for voluntary retirement and to keep the order of transfer in abeyance cannot be passed. However, the applicant is at liberty to file application for resignation in accordance with law. 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>	