

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – CCP 85 of 2023 [OA 42 of 2023]

**Dr. Soumendra Datta** -- VERSUS – Dr. Siddhartha Niyogi, Director of Health Services.

Serial No. and Date of order	For the Applicant	: Mr. M.N. Roy, Mr. S. Ghosh, Mr. G. Halder, Ld. Advocates.
<u>03</u> 06.05.2024	For the Contemnor/OP	: Mr. D. Kole, Ld. Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

In terms of a direction of this Tribunal dated 11.10.2023 in OA 42 of 2023, the Director of Health Services passed a reasoned order for consideration of the applicant's prayer for acceptance of his resignation letter. In this reasoned order, the Director of Health Services still holds the view that such an application for acceptance of resignation was not in the prescribed proforma.

As directed, Mr. Kole, learned counsel for the alleged contemnor/OP files a copy of the prescribed proforma for application for resignation from service. Such prescribed proforma was earlier circulated by the Deputy Director of Health Services (Admn.), vide Memo. No. 4597 dated 15.09.2021. While comparing this prescribed proforma as submitted by Mr. Kole on behalf of the respondent authority with the prescribed proforma submitted by the applicant, it is evident that the applicant had submitted his resignation letter in the same prescribed proforma. Mr. Kole has also checked and compared both the proformas and found that the applicant had submitted the application in the prescribed proforma.

Having examined and compared both the documents – the prescribed proforma as per Circular No. 4597 dated 15.09.2021 and the copy of the prescribed proforma submitted by the applicant, the Tribunal is satisfied that the application submitted by the applicant was clearly as per the prescribed proforma. On the issue of Dr. Datta not joining the post at Falakata after being

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released from Suri Multi Speciality Hospital, the Tribunal had in its direction dated 11.10.2023 made it very clear that such insistence on the part of the respondent authorities to accept such resignation letter only from the new place of posting – Falakata was in contravention of the Hon’ble High Court’s order in WPST 96 of 2022. Further, the Tribunal had also found that such rigidity in attitude was not desirable and had directed the respondent authority to accept the application submitted by the applicant in the prescribed proforma, irrespective of the place from which such application was submitted.

In a recent case, “Dr. Samir Rana v. State of West Bengal & Others” in WPST 3 of 2024 the Hon’ble High Court had directed the respondent authority to ensure acceptance of the petitioner’s application for resignation. The relevant paras are as under :

*“16. We thus record our dis-approval with the manner in which such legally unsustainable grounds are repeatedly being taken by the State to refuse resignation of employees serving the WBMES. By doing so, the State Government is consistently generating unwanted litigation at the cost of the public exchequer, that also to deny its employees what is due to them under the Service Rules.....”*

*18. .... we consider this an appropriate case to exercise our discretionary writ jurisdiction in favour of the petitioner to quash the letter dated 11.12.2023 issued by the Director of Medical Education West Bengal bearing Memo No. ME/REGN-14-2023/M/2149 and to direct the respondents to ensure acceptance of the petitioner’s application for resignation and to issue the consequential release order in his favour.....”*

Having heard the submissions of the learned counsels and after proper examination of this matter and in the light of the order passed by the Hon’ble High Court at Calcutta in WPST 3 of 2024, the Tribunal finds the reasoned order passed by the Director of Health Services dated 02.02.2024 rejecting the acceptance of the resignation letter not tenable and therefore, it is quashed and

**ORDER SHEET**

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set aside. Dr. Siddhartha Niyogi, Director of Health Services is directed to accept the resignation of the applicant, Dr. Soumendra Datta from service and issue the consequential release order to him within eight (08) weeks from the date of communication of this order.

Thus, with the above direction, this contempt proceeding is **dropped** and the contempt application **disposed of**.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

CSM/SS