

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

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

**Case No. OA – 416 of 2023**

**Dr. Ashutosh Nayak - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. For the Applicant : Mr. S. Ghosh,  
and Mr. M.N. Roy,  
Date of order Mrs. S. Das,  
4 Advocates  
29.04.2024

For the Respondents : Mr. G.P. Banerjee,  
Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 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, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the impugned order dated 19.05.2023 passed by the Director of Medical Education rejecting his prayer for resignation from government service. The applicant had furnished an application before the respondent authority praying for acceptance of his resignation from the government service. The applicant is a doctor working with the Health and Family Welfare Department. In the impugned Memo, “greater interest of public service” has been cited as the reason for declining his prayer. Having regretted the prayer, the applicant was directed to continue his duty as RMO-cum-Clinical Tutor, Department of General Surgery, Dimond Harbour Government Medical College & Hospital. Aggrieved by such rejection of his prayer, the applicant filed this application before this Tribunal praying for setting aside the above mentioned impugned Memo.

Mr. S. Ghosh and Mr. M.N. Roy, learned counsels appearing on behalf of the applicant has submitted that the Rule 34A of W.B.W.R. Part – I does not give any authority to the respondents to reject such prayer of resignation if all other criteria have been fulfilled by the employee. Further, the learned counsels have relied on a judgement of the Hon'ble High Court's W.P.S.T. No. 3 of 2024 in the matter of Dr. Samir Rana –Vs- State of West Bengal and Others. Copy kept in record. In particular,

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attention is drawn to para 10 – 13, 16 & 18 of the order, the most relevant paras 16 & 18 are as under :-

*“Para 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. The action of the respondent authorities, therefore, leaves a lot to be desired from the State functioning as a model employer.*

*Para 18: In the above facts and circumstances and since the Tribunal has failed to provide any efficacious remedy to the petitioner, and since in the instant case time is of the essence for the petitioner as the last extension granted by IIT to the petitioner to submit his joining is till 30<sup>th</sup> April, 2024, 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 so as to enable him to join at IIT.”*

Submission of learned counsels is that in view of the clear judgement passed by the Hon’ble Court in a similar matter relating to resignation of a doctor, the prayer in this application may be allowed with further direction to the respondent authority to accept the resignation letter and issue the release order expeditiously.

Mr. Banerjee appearing on behalf of the State Respondent submits that if any direction is given to the respondent authority, the same will be complied in terms of the order of the Hon’ble High Court.

Having heard the submissions of the learned counsels and considering the order passed by the Hon’ble High Court in W.P.S.T. No. 3 of 2024, the impugned Memo No. ME / REGN-05-2023 / M / 1237 dated 19.05.2023 passed by Director of Medical Education rejecting the prayer of the applicant for resignation is quashed and set aside. In terms of the same order of the Hon’ble High court, respondent no. 2, Principal

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Secretary, Department of Health and Family Welfare is directed to accept the resignation letter, if otherwise eligible, within three months from the date of communication of this order.

Accordingly, this application is disposed.

**SAYEED AHMED BABA**  
**OFFICIATING CHAIRPERSON & MEMBER(A)**

A.K.P