

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. - OA 140 OF 2022

ATANU BASU - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and

Date of order

3
28.03.2022

For the Applicant

: Mr. Kallol Basu,
Mr. Suman Banerjee,
Advocates

For Respondents

: Mr. Gautam Pathak Banerjee,
Mr. Sankha Ghosh,
Advocates

The matter is taken up by the single Bench pursuant to the order contained in the Notification No.118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6(5) of the Administrative Tribunals Act, 1985.

The matter has appeared today under the heading "Admission Hearing" in the supplementary cause list. Let a copy of the supplementary cause list be kept on record.

In this application, Dr. Atanu Basu, the applicant, who was placed on detailment in Chinsura District Hospital, Hooghly has challenged the order dated 11th February, 2022 transferring him to Chanchal SDH, Malda as Medical Officer (Specialist) in existing vacancy and the release orders dated 18th February, 2022 and 28th February, 2022. It is submitted by Mr. Kallol Basu, learned advocate on behalf of the applicant that since the mother of the applicant is critically ill as evident from paragraph VII of page 5 of the application and is treated in a government hospital and as the transfer would affect the treatment of his mother, the order of transfer and the consequent release orders be stayed. Moreover, the applicant being a specialist in Radiotherapy, as evident from the order dated 11th February, 2021, that is, his service is to be utilised as Medical Officer (Oncology), which is available at Chinsura, the authority be directed to reconsider the order of transfer. Though representations dated 15th February, 2022 and 7th March, 2022, ventilating his grievances, were furnished before the Director of Health Services

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and the Principal Secretary to the Government of West Bengal, Department of Health and Family Welfare, Kolkata, respectively those have not been considered.

Mr. Gautam Pathak Banerjee, learned advocate appearing on behalf of the State respondents submits that in view of the judgement in State of U.P. and Others-Vs-Gobardhan Lal (2004) 11 SCC 402, particularly the law laid down in paragraphs 7 and 8 thereof and in S.C. Saxena vrs. Union of India and Others : (2006) 9 SCC 583, the applicant being a government servant should join at his transferred post and can make a representation thereafter. Moreover, the wife of the applicant, a doctor in Oncology and posted at a government hospital in Howrah, can also look after her mother-in-law.

Having heard the learned advocates for the parties since it has been submitted on behalf of the applicant that he has to look after his mother, who is critically ill as evident from paragraph VII of page 5 of the application, and the documents appearing at pages 25 to 36 and 44 to 51 of the application, and as it is submitted that the representations dated 15th February, 2022 and 7th March, 2022 have not been considered by the respondents, considering the said fact the application is disposed of by directing the Principal Secretary, now re-designated as the Secretary, Health and Family Welfare Department, Government of West Bengal, the respondent no.2(i) to sympathetically consider the said representations dated 15th February, 2022, being Annexure "A-5" to the application, and 7th March, 2022, being Annexure "A-8" to the application, and shall pass a reasoned order to be communicated to the applicant within five weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal after giving an opportunity of hearing to the applicant, after verifying the records and making necessary enquiry. Till reasoned order is passed and communicated, the order of transfer and the release orders shall remain stayed.

SCN.

(SOUMITRA PAL)
CHAIRMAN