

WP.ST. 164 of 2023

(Dr. Santanu De Vs. The State of West
Bengal & Ors.)

**Mr. Sudeep Sanyal
Mr. Soubir Banerjee
Ms. Paramita Jati**

..... For the petitioner

**Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. Sangeeta Roy**

..... For the respondents

The present writ petition has been preferred challenging an order dated 22nd September, 2023 passed by the learned Tribunal in an original application being OA No. 115 of 2023.

Records reveal that the petitioner preferred the original application challenging the inaction on the part of the respondents to consider his application for resignation submitted on 4th October, 2018 with a prayer to issue release order in his favour after accepting the resignation letter. The original application was heard by the learned Tribunal on 15th June, 2023 and the respondent no. 2 was directed to submit a report regarding the fate of the resignation letter submitted by the petitioner and the matter was made returnable on 22nd September, 2023. Instead of filing such report, a memo dated 24th August, 2023 was issued to the petitioner by the respondent no. 2 stating, *inter alia*, that his prayer for resignation from Government service has been rejected by the competent authority of the

Department of Health & Family Welfare in the greater interest of public service. Upon perusing the memo dated 24th August, 2023 placed before the learned Tribunal on 22nd September, 2023, the original application was disposed of observing that the same has become infructuous.

Mr. Sanyal, learned advocate appearing for the petitioner submits that the learned Tribunal erred in law in disposing of the application as infructuous. The direction to file a report was not complied with and the respondent no.2 simply communicated the memo dated 24th August, 2023 to the petitioner. Had such report been filed, the petitioner could have used an exception to the same.

Mr. Sanyal submits that the petitioner prayed for issuance of release order upon acceptance of the resignation letter dated 4th October, 2018. The authority simply kept quiet and it is only about five years thereafter the memo dated 24th August, 2023 was issued. The said memo is a cryptic one containing no reason as to why the petitioner's prayer for resignation had not been accepted.

Mr. Mukherjee, learned Additional Government Pleader appearing for the respondents, however, submits that the learned Tribunal has rightly observed that the application has become infructuous inasmuch as during pendency of the original application, the decision as

regards the petitioner's resignation was duly communicated.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The averments made in the original application along with the prayers made therein ought to have been considered together and not in isolation. It appears that without filing the report as called for by the learned Tribunal, the respondents simply placed a memo dated 24th August, 2023 on the returnable date. The validity of the same, in our opinion, ought to have been considered by the learned Tribunal instead of disposing of the matter as being infructuous leading to multiplicity of proceedings.

In view thereof, the order dated 22nd September, 2023 passed by the learned Tribunal, is set aside.

The respondents in compliance with the order dated 15th June, 2023 shall file a report enclosing the memo dated 24th August, 2023 within a period of two weeks from date.

The petitioner would be at liberty to use an exception to the said report within a week thereafter and the learned Tribunal shall dispose of the original application, in accordance with law, as expeditiously as possible, without granting any unnecessary adjournment to either of the parties.

With the above observations and directions, the writ petition being **WP.ST. 164 of 2023** is disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(V. M. Velumani, J.)

(Tapabrata Chakraborty, J.)