

09th December, 2025
(D/L No.15)
Ct. No.4
(SKB)

W.P.S.T.79 of 2025

Dr.(Smt.) Sarmila Das Chatterjee
Versus
The State of West Bengal and others

Mr. Sanjib Bandyopadhyay,
Ms. Sayani Bandyopadhyay
... for the petitioner.

Mr. Tapan Kr. Mukherjee, Id. AGP,
Ms. Sangeeta Roy
....for the State.

1. The writ petitioner is a member of the West Bengal Public Health-cum-Administrative Service (in short 'WBPHAS'). Upon acquisition of a post-graduate degree, she sought reversion to the West Bengal Health Service Cadre. Her claim was rejected by the authorities by an order dated 11.03.2024 relying upon Rule 4(2) of the West Bengal Public Health-cum-Administrative Service (Option) Rules, 2004 (In short 'Rules').
2. The petitioner thus, approached the West Bengal Administrative Tribunal ('Tribunal' for short) seeking a relief by way of a direction upon the authorities for allowing her to join the West Bengal Health-cum-Administrative Service Cadre. The Tribunal rejected the Original Application by its order dated 13.03.2025

passed in O.A. 116 of 2025. Since the rejection is founded on the provisions contained in Rule 4(2) of the Rules, we consider it apposite to reproduce the relevant extract of the Rule, which reads as follows:-

“4. Option to West Bengal Health Service. - (1) Notwithstanding anything contrary contained in the foregoing provisions, any person appointed in the tiers of "Basic Public Health-cum-Administrative Officer" or "Public Health-cum-Administrative Officer Group B" in the cadre of the West Bengal Public Health-cum-Administrative Service, subject to provisions of section 8A of the West Bengal State Health Service Act, 1990 and in terms of these rules, shall be eligible for opting out to a post in the West Bengal Health Service. The option so exercised shall not automatically entitle him to a post in the West Bengal Health Service and actual reversion of such person to the West Bengal Health Service shall be made in phased manner.

(2) The option, under sub-rule (1), once exercised, shall be final and shall in no circumstances, be revoked at any subsequent date

Provided that, upon such reversion, to the West Bengal Health Service, the concerned person shall have to forego the additional incremental benefits accredited to him consequent to his absorption in the West Bengal Public Health-cum-Administrative Service (Pay and Allowance) Rules, 2004, and thereupon his pay would be refixed in such a manner, that he would have been entitled to, had he was all along serving in the West Bengal Health Service or as would be determined by the State Government.”

3. A bare perusal of the Rule 4(2) in isolation reveals that though once a person gets appointed in the West Bengal Public Health-cum-Administrative Service, in no circumstances, a reversion can be claimed. The reading of Rule 4

in its entirety reveals that reversion is possible under certain specific circumstances, such as, in a phased manner; and only if the concerned person foregoes the additional increment benefits accredited to him/her upon his/her absorption in the WBPHAS. Such a reversion, if permitted, further appears to be having the effect that the person's pay would be refixed in such a manner that he was all along serving in the West Bengal Health Service or as would be determined by the State Government.

4. Apparently, it is under such circumstance that others, namely, one Dr. Sisir Biswas was allowed to opt out of the WBPHAS by the Government Notification dated 25.02.2022.

5. The order dated 11.03.2024 rejecting the petitioner's request manifests non-consideration of the conditions specified in Rule 4 of the Rules. The consideration is apparently based only on the bar to exercise of reversion, without taking into consideration the circumstances under which it may be allowed or permitted as apparent from the Rule itself.

6. The petitioner claimed a relief before the Tribunal for being allowed to join the Health Service Cadre. In spite of such prayer being made the Tribunal has held the petitioner disentitled to such relief, since there was no

specific challenge to the order dated 11.03.2024 rejecting her claim for reversion.

7. Upon going through the prayer made in the O.A., we find that the substantial relief was in the following terms:-

“Relief Sought For:

- (i) *To direct the concerned respondent to allow the applicant to join West Bengal Health Service from West Bengal Public Health cum Administrative Service (WBPHAS);*
- (ii) *Not to transfer to any rural hospital (BPHC/RH) and further not to transfer any hospital lower than Sub-Division Hospital (SDH) where specialist service can be provided*
- (iii) *Any other order or orders as may be deemed fit and proper by Your Lordships.”*

8. The prayer, therefore, was to allow the petitioner to join the West Bengal Health service from the WBPHAS.

9. We, therefore, find that a case has been made out in the Original Application seeking relief of reversion which was rejected by the impugned order dated 11.03.2024. The respondents, therefore, were not deprived of any opportunity to meet this prayer, with reference to the order of rejection dated 11.03.2024. In fact the applicant annexed the rejection order dated 11.03.2024 as Annexure F before the Tribunal. She also made specific averments in the O.A. in paragraphs 6.13 and 6.15 assailing the order dated 11.03.2024. Averments made in paragraphs 6.13 and 6.15 reads:

“6.13 That the concerned respondent vide Memo no.HFW-43011(11)/5/2024/ADMIN-SEC)(DHS)(HFW)-Dept. of H & FW/A1603 dated 11.03.2024, has turned down the prayer of the applicant on 11.03.2024 to change her service from WBPHAS to WBHS.

Photostat copy of the said rejection order dated 11.03.2024 is annexed herewith and marked as Annexure “F”.

6.15 That so far the said notification dated 11.03.2024 is concerned, it is assumed that the respondents are supposedly following the same and no exception can be made. But the subsequent notifications for the years 2021 and 2022 clearly say that the concerned respondent has deviated from the said notification dated 20.08.2004 and has allowed certain doctors to opt out their services from WBPHAS to WBHS. Even some doctors who are similarly situated as that of the applicant who also opted earlier to change their services, have been allowed to opt out again. As such, it is no clear from the said memo dated 11.03.2024 as to why the respondents are taking double standard while treating their own employees. Such discrimination needs to be addressed and adjudicated by their Learned Tribunal.”

10. We, therefore, find that the applicant has substantially and specifically challenged the order dated 11.03.2024 in the O.A. The omission to make a prayer, is therefore of no consequence. The respondents were aware of the challenge and had sufficient opportunity to meet the challenge. The requirement of natural justice was thus fulfilled.

11. We find that the petitioner’s substantial claim for reversion to the West Bengal Health Service Cadre, was required to be considered by the authorities with reference to Rule 4 in its entirety. The restrictive consideration therefore, contained in the order dated 11.03.2024 does not suffice.

12. We have deliberately not expressed any opinion on the claim and leave it for the authority to take decision afresh, based on an application which, the learned advocate for the petitioner submits would be filed within two weeks from date.

13. The authorities would be at liberty to take a decision having regard to all relevant factors and based on the mandate of the Rule contained in Rule 4 read with the proviso thereto of the Rules, or any other applicable rule etc.

14. Such decision be taken by the authorities within 8 (eight) weeks from the date of receipt/production a copy of this order along with the representation.

15. We make it clear that while taking such decision, the order of the Tribunal as well as earlier order of the authorities dated 11.03.2024, shall not stand in the way of the authorities.

16. The Writ Petition is accordingly disposed of.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)