

Government of West Bengal
Directorate of Health Services
Nursing Section
Swasthya Bhaban, 1st Floor, Wing- A,
GN-29, Sector- V, Salt Lake City, Kolkata- 700091.

No.HNG/7L-48-2021/805

Date 31/05/2021

To
The Chief Medical Officer of Health
Purba Medinipur Pin - 721636

Sub: Nonpayment of salary of Smt. Nita Bera , Staff Nurse , Grade -II attached to H.S. Janubasan Rural Hospital , Purba Medinipur .

Ref: Order No HNG/7L-48-2021/545 date 08.04.2021.

Enclosed please find herewith a copy of a letter dated 21.05.2021 from Sri Sambhu Nath Bera, Learned Advocate, High Court, Kolkata regarding the said matter. This is self- explanatory. You are requested to go through the matter carefully and send a detailed report with necessary documents (Report/ Reports of Medical Board constituted , show cause letters served on the candidate concerned, her prayers of leave applications ,her joining report after long absence etc.) with your valuable opinion regarding regularization of her period of absence. The BMOH, H.S. Janubasan Rural Hospital may also be requested to do the needful according to the order no cited above. If her monthly pay is stopped, this may be disbursed on **no work no pay basis** and overdrawn, if any may be withdrawn subsequently.

Please treat it as **urgent** and necessary reply is expected to receive by this end within **7(Seven) days** from the date of uploading of this Memo in the Website of Deptt. of Health & Family Welfare.

✓ Enclo: As stated above.

SHZ 31.05.21
Deputy Director of Health Services
(Nursing)

Government of West Bengal

Date 31/05/2021

No.HNG/7L-48-2021/805/103)

Copy forwarded for information & necessary action to:

1. The BMOH, H.S. Janubasan Rural Hospital, Purba Medinipur Pin - 721172.
2. Smt. Nita Bera , Staff Nurse , Grade -II H.S. Janubasan Rural Hospital , Purba Medinipur Pin - 721172.
3. The I.T. Co-ordinator, I.T. Cell , Swasthya Bhawan , Salt Lake City , Kolkata -91 for web posting.

SHZ 31.05.21
Deputy Asstt. Director of Health Services
(Nursing)

Government of West Bengal

27/11
24.5.

25.5.21
Sambhu Nath Bera
Advocate,
High Court, Calcutta.

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TEMPLE CHAMBERS,
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R.M.
24/05

RESI: Guluria, Mecheda, P.S.-Kolaghat,
Dist - Purba Medinipur,
Pin-721137.

21.05.2021

The Block Medical Officer of Health,
H/S Janubasan Rural Hospital,
Sahid Matangini Block, Village- Janubasan,
Post Office Nonakuri Bazar,
Police Station Tamruk,
District Purba Medinipur,
Pin- 721172.

Dear Sir / Madam,

My client : Smt. Nita Bera, Staff Nurse of H/S Janubasan Rural Hospital, District Purba Medinipur, having HRMS ID 1996010606, residing at Flat No. 108, Binapani Apartment, Village Sahapur, P.O. & P.S. - Kolaghat, District Purba Medinipur, Pin- 721134.

Sub: Non payment of salary since December, 2020 till date.

I am instructed to state on behalf of my abovenamed client and upon instructions from my client I am sending the instant legal notice to you.

My abovenamed client was detailed to work at Baroma Multi Speciality Covid Hospital, Purba Medinipur on and from 14.07.2020 till further order by and under Order dated 09.07.2020 passed by the Chief Medical Officer of Health, Purba Medinipur.

Even before the aforesaid order dated 09.07.2020 passed by the Chief Medical Officer of Health, Purba Medinipur for my client detailment to join Baroma Multi Speciality Covid Hospital, my client also obeyed and/or respected the Order passed by the Chief Medical Officer of Health, Purba Medinipur. The Memo No. CMOH/Pr..Mid/289/1(13) dated 22.01.2016 was the order passed by the Chief Medical Officer of Health, Purba Medinipur, is the evident for my client's respect and obedience to the order passed by the Chief Medical Officer of Health, Purba Medinipur for detailment of my client to join at Paikpari BPHC, Kolaghat, Purba Medinipur. On 01.11.2018, my client was released from her detailment posting place.



Sambhu Nath Bera
Advocate,
High Court, Calcutta.

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Dist - Purba Medinipur,
Pin-721137.

My client realized her physical problems due to illness and my client did USG and CECT of whole abdomen as advised by my client's doctor and thereafter, my client came to know that she had major physical problem such as Liver Haemangioma, Subserus Uterus with myoma and Splenomegaly.

The above facts and circumstances were informed to you by way of electronic method by my client. However, on 13.07.2020 my client also applied for leave for further treatment, which was duly rejected by you even knowing the abovementioned physical problems of my client.

After knowing the aforesaid circumstances, my client was called for Medical Examination by and under Memo No. CMOH/Pbmd/1559 dated 17.07.2020 issued by the Chief Medical Officer of Health, Purba Medinipur. My client appeared before the Medical Board, District Hospital, Purba Medinipur on 21.07.2020 and did all the tests as advised by the said Medical Board. It is pertinent to say that the said Medical Board was constituted with the medical Officers namely, Dr. Amit Dey, M.O. (Physician), Dr. S. Bandaopadhya, M.O. (Surgeon), Dr. S. Pati, M.O. (Ophthalmologist) and Dr. P. Partra, M.O. (Psychiatrist). After doing all the tests as advised by the said Medical Board, my client submitted all the test reports to the Superintendent, District Hospital, Purba Medinipur on 03.08.2020. The Authority of District Hospital, Purba Medinipur suggested my client to appear and take advised from Gynaecologist, namely, Dr. J. C. Maity, for which my client did appear before him on 04.08.2020. However, the said Gynaecologist advised my client to do operation, which was not mentally accepted by my client and my client decided to do treatment at Christian Medical College, Vellore, Tamilnadu.

My client duly informed you for her aspiration to do treatment at Christian Medical College, Vellore, Tamilnadu by way of electronic communication on 11.08.2020 because the result and/or certificate from the aforesaid Medical Board was awaited by my client and also my client was suffering from Gaint Haemangioma within enlarge left lobe of Liver. It is pertinent to mention that for the treatment at Christian Medical College, Vellore, Tamilnadu, my client applied leave for the period from 12.08.2020 to 31.08.2020 being Leave application No. 202009041934675.



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Advocate,
High Court, Calcutta.

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The Christian Medical College, Vellore, Tamilnadu, after doing the necessary tests, advised my client to seek medical care in case of small risk of bleeding / rupture regarding Liver Haemangioma and no intervention is needed for fibroid Uterus.

On 01.09.2020 and 03.09.2020, my client made prayer before the Chief Medical Officer of Health, Purba Medinipur and you respectively to join duty at H/S Janubasan Rural Hospital, Sahid Matangini Block. However, without considering my client's prayer you in your capacity as Block Medical Officer of Health chose to issue a show cause letter, which was duly replied by my client on 04.09.2020 by and under her written communication.

Knowing fully the aforesaid facts and circumstances and the treatment taken by my client, the Chief Medical Officer of Health, Purba Medinipur on your suggestion and/or recommendation passed another order vide Memo No. CMOH/pbmd/2229/2020-21 dated 01.10.2020 for detailement to work at Baroma Multi Speciality Covid Hospital, Purba Medinipur against my client w.e.f 03.10.2020 untill further order. My client made a prayer against the aforesaid order passed by the Chief Medical Officer of Health, Purba Medinipur, which was duly received by the office of the Chief Medical Officer of Health, Purba Medinipur on 03.10.2020. I am instructed to say that knowing fully the physical conditions of my client once again deliberately forced my client to join work at Baroma Multi Speciality Covid Hospital, Purba Medinipur, during COVID pandemic, was the life threat to my client by you in your capacity as Block Medical Officer of Health.

The entire medical system of the World knows the strength of COVID-19 virus and knowing fully the same since my client was suffering serious physical problem my client prayed to the Chief Medical Officer of Health, Purba Medinipur to join at H/S Janubasan Rural Hospital, Sahid Matangini Block on and from 05.10.2020. Since no response had been received by my client from the office of the to the Chief Medical Officer of Health, Purba Medinipur, having no other option my client applied for leave on and from 03.10.2020 to 30.11.2020 being Leave application No. 20201122836455. The aforesaid Leave application was rejected by you, the reason known better to you.



Sambhu Nath Bera
Advocate,
High Court, Calcutta.

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In furtherance, you in your capacity as Block Medical Officer of Health issued show cause letter vide Memo No. 409 dated 30.10.2020, 428 dated 06.11.2020 and 440 dated 10.11.2020 to my client for not joining at Baroma Multi Speciality Covid Hospital, Purba Medinipur. The aforesaid show cause letters were duly replied by my client on 31.10.2020, 07.11.2020 and 12.11.2020 respectively.

On 21.11.2020 by and under written communication my client made further prayer before the Chief Medical Officer of Health, Purba Medinipur to continue her duty either at H/S Janubasan Rural Hospital or Paikpari BPHC, Kolaghat, Purba Medinipur instead of detailed to work at Baroma Multi Speciality Covid Hospital, Purba Medinipur. However, my client was again blessed with another show cause letter and on 14.12.2020 my client replied to the said show cause letter vide Memo No. CMOH/Pr.Mid/3411/1(2) dated 11.12.2020 which was duly received by the office of the Chief Medical Officer of Health, Purba Medinipur.

By way of electronic communication on 22.12.2020 my client seek leave before you on and from 01.12.2020 to 30.12.2020 for her illness since login problem faced by my client through the official portal of IFMS, Government of West Bengal.

By a letter and/or communication dated 21.12.2020, you in your capacity as Block Medical Officer of Health communicated to the Chief Medical Officer of Health, Purba Medinipur to stop the salary payment of my client. By and under said communication, you communicated to the Chief Medical Officer of Health, Purba Medinipur that my client was unauthorized absent since 04.10.2020 onward and non-compliance of the order passed by the Chief Medical Officer of Health, Purba Medinipur. By and under said communication, you further communicated to the Chief Medical Officer of Health, Purba Medinipur that in spite of issuance of show cause letters vide Memo No. 409 dated 30.10.2020, 428 dated 06.11.2020 and 440 dated 10.11.2020 my client was not performed the schedule duty. I am instructed to say that the communication dated 21.12.2020, made by you in your capacity as Block Medical Officer of Health to the Chief Medical Officer of Health, Purba Medinipur, is baseless and without any merit as because the facts and circumstances stated hereinabove is the more ethical and identical as stated earlier by my



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client by her several communications and/or reply to the show cause letters.

By and under Memo vide No. CMOH/pbmd/3610 dated 30.12.2020 issued by the Chief Medical Officer of Health, Purba Medinipur my client was further called for appearance before Medical Board, District Hospital, Purba Medinipur on 05.01.2021. It is pertinent to say that the said Medical Board was constituted with the medical Officers namely, Dr. Amit De, M.O. (Physician), Dr. Saibal Maiti, M.O. (Surgery) and Dr. J. C. Maity, M.O. (Gynaecologist). On 06.10.2021, The Superintendent, Purba Medinipur District Hospital at Tamluk issued a certificate of opinion of the said Medical Board, which opined that my client was unfit for normal duties opined by Dr. Amit De, M.O. (Physician), my client needed light duties opined by Dr. Saibal Maiti, M.O. (Surgery) and no Gynaecological abnormality at the time of examination opined by Dr. J. C. Maity, M.O. (Gynaecologist).

In spite of the above mentioned prayer made by my client and above observations made by the Medical Board, District Hospital, Purba Medinipur, my client was not allowed to join in duty either H/S Janubasan Rural Hospital or Paikpari BPHC, Kolaghat, Purba Medinipur instead of detailed to work at Baroma Multi Speciality Covid Hospital, Purba Medinipur.

My client made application before the Directorate of Health Services, Government of West Bengal and the Deputy Directorate of Health Services (Nursing Section), Government of West Bengal by and under applications both dated 15.01.2021 praying for joining at H/S Janubasan Rural Hospital, Sahid Matangini Block for light duty instead of Baroma Multi Speciality Covid Hospital, Purba Medinipur during the COVID pandemic.

Same as above mentioned prayer made by my client by her letters dated 18.01.2021 and 03.03.2021 addressed to the Chief Medical Officer of Health, Purba Medinipur and in spite of acceptance of the aforesaid letters dated 18.01.2021 and 03.03.2021, my client was not allowed to join her duty at H/S Janubasan Rural Hospital, Sahid Matangini Block for light duty instead of Baroma Multi Speciality Covid Hospital, Purba Medinipur during the COVID pandemic.



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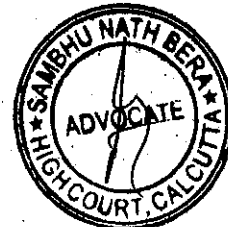
On 10.03.2021, by and under communication bearing No. HNG/7L-48-2021/389, the Deputy Directorate of Health Services (Nursing Section), Government of West Bengal directed you to furnish copy of leave application from my client duly forwarded by local authority, exact period of absence from duties in respect of my client under your control, copy of the joining report allowing my client to resume her duty after each spell of her absence, copy of the relevant transfer order and subsequent release order in respect of my client; detailed leave statement showing therein leave (Earned Leave, Half Pay Leave) due at credit in respect of my client just period to each spell of absence and documentary evidence, if any, whether my client intimated the local authority about her absence from duties during her each spell of absence. I am instructed to say that in spite of the aforesaid communication, you deliberately avoid to furnish aforesaid information to keep my client in trouble.

Having no option, my client anticipated for any order to be passed by the Directorate of Health Services, Government of West Bengal and the Deputy Directorate of Health Services (Nursing Section), Government of West Bengal. However, by and under Order bearing No. HNG/7L-48-2021/545 dated 08.04.2021 passed by the Directorate of Health Services, Government of West Bengal as under:

"Smt. Nita Bera, Staff Nurse, Gr.II of WBNS Cadre presently attached to H.S. Janubasan Rural Hospital, Purba Medinipur is hereby permitted to resume her duties to act in the same capacity subject to the condition that her period of absence will be regularized after completion disciplinary proceedings to be drawn against her, if found applicable."

In pursuant to the aforesaid Order dated 08.04.2021, the Chief Medical Officer of Health, Purba Medinipur allowed to join my client in duty at H.S. Janubasan Rural Hospital, Purba Medinipur by passing a separate Order on 12.04.2021 vide Memo No. CMOH/pbmd/1271.

My client, even at the situation of her physical conditions, served her on 08.05.2021, 10.05.2021 and 12.05.2021 at Safe Home, Nandakumar, Purba Medinipur during COVID pandemic.



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Advocate,
High Court, Calcutta.

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I am instructed to say that my client never ever disrespect the order passed and/or instruction given by any superior of my client but continuously show cause notices and detailment order passed, during COVID pandemic, against my client, which was the overburden with the serious physical condition of my client.

I am instructed to say that from December, 2020 to till date my client's salary is unpaid and/or stopped due to your communication dated 21.12.2020 made to the Chief Medical Officer of Health, Purba Medinipur in your capacity as Block Medical Officer of Health.

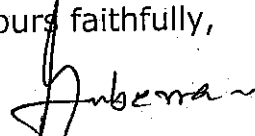
I am instructed to say that till today no disciplinary proceedings are pending against my client and also no such communication from your end, regarding disciplinary proceeding against my client, is made over to my client. In spite of the aforesaid, you in your capacity as Block Medical Officer of Health and also in your individual capacity is deliberately delayed to make payment of arrear salary to my client for which my client is suffering with financial crunch in this COVID pandemic. However, even the last month salaries of the other staffs have already been paid.

I am instructed to say that after rejoining to the duty on and from 12.04.2021 my client is suffering from not only financially but also mentally harassment made over her during duty which is the sole creation of you in your capacity as Block Medical Officer of Health and also by your individual capacity by not expediting the process of payment of arrear salary of my client.

In these facts and circumstances, you are requested to pay the arrear salary of my client within fifteen (15) days from the date of the instant communication, else my client will be advised to take legal step/s either in civil or criminal against you as your capacity as Block Medical Officer of Health and also your individual capacity holding you for all cost and consequences.

Thanking you,

Yours faithfully,


SAMBHU NATH BERA
Advocate, High Court

Sambhu Nath Bera
Advocate,
High Court, Calcutta.

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Copy to:

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✓ 2. Deputy Directorate of Health Services (Nursing Section),
Government of West Bengal,
Swasthya Bhawan, Wing 'A', 1st Floor,
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3. The Chief Medical Officer of Health,
Purba Medinipur at Tamluk,
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