

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal (Chairman)****& The Hon'ble Mr. P. Ramesh Kumar (Administrative Member)**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p style="text-align: center;">1</p> <hr/> <p>19.07.2018</p>	<p>Case No. OA-446 of 2018 : Dr. Anita Basu Datta Vs. State of West Bengal &amp; Ors.</p> <p>Case No. OA-447 of 2018 : Dr. Jayanta Kumar Datta Vs. State of West Bengal &amp; Ors.</p> <p>Case No. OA-448 of 2018 : Dr. Ipsita Datta Vs. State of West Bengal &amp; Ors.</p> <p><b><u>In all the applications :</u></b></p> <p>For the Applicant : Mr. G.P. Banerjee Learned Advocate</p> <p>For the Respondents: Mr. S. Ghosh Learned Advocate</p> <p>As issues are similar, applications bearing No. OA-446 of 2018 : Dr. Anita Basu Datta Vs. State of West Bengal &amp; Ors., OA-447 of 2018 : Dr. Jayanta Kumar Datta Vs. State of West Bengal &amp; Ors. and OA-448 of 2018 : Dr. Ipsita Datta Vs. State of West Bengal &amp; Ors. are taken up for hearing analogously wherein the applicants have challenged the notifications dated 8<sup>th</sup> June, 2018, whereby Dr. Anita Basu Datta now posted as G.D.M.O. in Raghunathpur Sub-Divisional Hospital, Purulia has been transferred to as G.D.M.O. at Lalbag SD Hospital, Murshidabad, Dr. Jayanta Kumar Datta, now posted as Medical Officer (Ophthalmology),</p>	

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	<p>Raghunathpur SD Hospital, Purulia has been transferred to as Medical Officer (Ophthalmology) at Kandi SD Hospital, Murshidabad and Dr. Ipsita Datta now posted as Medical Officer (SNCU) at Raghunathpur SD Hospital, Purulia has been transferred to as GDMO at Amlat BPHC, Purba Medinipur.</p> <p>The primary grounds taken in OA-446 of 2018 challenging the order of transfer is that the applicant, Dr. Anita Basu Datta is a heart patient and the impugned release order has been passed without giving a breathing time to submit representation.</p> <p>In OA-447 / 2018 that is in the application filed by Dr. Jayanta Kumar Datta, it has been, inter alia, stated that the transfer is against transfer policy of 9<sup>th</sup> December 2011 and the applicant has preferred to serve patients under the Sub-Divisional Hospital more sincerely by foregoing private practice and by choosing to get the Non-Practicing Allowance from the Government and as the transfer is at a very far away place, it is vindictive in nature.</p> <p>So far as the application O.A. 448 of 2018 is concerned, that is application filed by Dr. Ipsita Datta, it has been stated that she joined as Medical Officer in West Bengal Health Services cadre under the Health &amp; Family Welfare Department, Government of West Bengal on 31<sup>st</sup></p>	

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	<p>August, 2018. Though an innocuous prayer was made by the authorities to allow her to get posted at Raghunathpur SD Hopsital, Purulia, and to attend her ailing parents, that is, Dr. Jayanta Kumar Datta and Dr. Anita Basu Datta, it has been turned down and she has been transferred to far away place at Purba Medinipur. Moreover, the transfer policy is against the established norms.</p> <p>Dr. Jayanta Kumar Datta, Dr. Anita Basu Datta and Dr. Ipsita Datta are the father, mother and daughter respectively. It is an admitted position that they are all posted at the same hospital in Purulia. In our view nothing has been shown that the transfer order is mala fide or it is biased. It is an established proposition of law that transfer is an incident of service. Therefore, the order of transfer dated 8<sup>th</sup> June, 2018 annexed to the three original applications cannot be interfered with. Incidentally, the law in this regard is well settled as the Supreme Court in State of U.P. &amp; Ors. Vs. Gobardhan Lal reported in AIR (2004) 11 SCC 402 had held as under :</p> <p style="text-align: center;">“7. It is too late in the day for any government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an</p>	

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	<p>employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not</p>	

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SCN.	<p>affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.”</p> <p>Hence, the orders of transfer do not call for interference. Hence, the applications are dismissed.</p> <p>Urgent Photostat certified copy of this order, if applied for, be furnished to the parties on priority basis.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	