

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble Mr. P. Ramesh Kumar (Administrative Member)

Case No – OA 625 OF 2018

UTPAL KUMAR DAS Vs The State of West Bengal & Ors.

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>1 16.08.2018</p>	<p>For the Applicant : Mr. G.P. Banerjee Mr. Subhasish Banerjee Advocate</p> <p>For the Respondents: Mr. S.N. Ray Advocate</p> <p>In this original application the applicant has challenged the order dated 31st July, 2018 issued by the Director, Small Savings & Ex-Officio Joint Secretary, Finance Department, the respondent No. 2 which was passed pursuant to the order dated 5th July, 2018 passed in O.A. No. 467 of 2018 filed by the applicant himself. Mr. G.P. Banerjee, learned advocate appearing on behalf of the applicant submits that while passing the order the respondent No. 2 did not consider the representation of the 87 year old mother of the applicant and the surrounding facts. It is submitted that the applicant has to look after his mother as well as his nine month old baby. Moreover, he has not been served with a copy of the order dated 20.06.2018.</p> <p>Mr. S.N. Ray, learned advocate for the State submits that since other similarly situated employees, as</p>	

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	<p>found from the impugned order, have joined their respective posts and as it is evident from the order itself that the order dated 20th June, 2018 mentions the representation of the applicant, no order may be passed.</p> <p>Heard Mr. G.P. Banerjee and Mr. S.N. Ray. In our view transfer is an incident of service. Unless it is shown that an order of transfer is malafide, it should not be interfered with. However, since admittedly the applicant has to look after his 87 years old mother, considering the entirety of facts, we direct him to join the transferred post on 12th November, 2018 to which Mr. Banerjee, on instruction from his learned advocate-on-record, Mr. Subhasish Banerjee, who is present in court, submits that he is readily going to comply. After the applicant joins the transferred post on 12th November, 2018, he is at liberty to file representation before the Director, Small Savings & Ex-Officio Joint Secretary, Finance Department, respondent No. 2 highlighting his grievances. If such representation is filed, it shall be disposed of by the Director, Small Savings & Ex-Officio Joint Secretary, Finance Department, respondent No. 2 within four weeks from the date of its receipt after giving an opportunity of hearing. It is made clear that no coercive action will be taken for this belated joining of the post for the reasons which have been indicated in this order. If the petitioner does not join by 12th November,</p>	

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SCN.	<p>2018, the respondent authorities are at liberty to take steps in accordance with law. It is also made clear that the release order remains stayed till 12th November, 2018. The application is disposed of.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	