

**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 684 OF 2019

SANTANU BETAL AND ANR. 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>3</p> <hr/> <p>26.09.2019</p>	<p>For the Applicant : Mr. P. Chatterjee, Advocate</p> <p>For the Respondents: Mr. G.P. Banerjee, Advocate</p> <p>In this application Santanu Betal and Amar Singha, the applicants, both Group “D” staff in SMM Home, Liluah, have challenged the order of transfer dated 26<sup>th</sup> July, 2019 transferring them to Korok Children Home for Boys, Jalpaiguri and Suryadaya Children Home for Deaf &amp; Dumb Boys and Girls, Raiganj respectively on the ground that it is mala fide. Relying on the facts and grounds in the application, it is submitted by Mr. P. Chatterjee, learned advocate for the applicants since they were posted for one and half years back at Liluah, by transferring them to a distance of about 600 kilometres, for participating in a demonstration, will cause hardship.</p> <p>Mr. G.P. Banerjee, learned Advocate appearing on behalf of the respondents submits that in view of the law laid down by the Supreme Court in State of U. P. and Others -Vs- Gobardhan Lal : (2004) 11 SCC 402, the order of transfer may not be interfered with as it has been</p>	

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	<p>issued in the public interest.</p> <p>Heard learned advocates for the parties.</p> <p>The law laid down by the Supreme Court in State of U. P. -Vs- Gobardhan Lal (Supra) particularly in paragraph 7 and 8 is as under:</p> <p>“.....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 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 likely 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</p>	

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	<p>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 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 notices supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.</p> <p>8. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the courts or tribunals as though they are</p>	

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	<p>Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that courts or tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer.....”</p> <p>Perused the order of transfer appearing at page 11 of the application. Since the applicant is unable to demonstrate that the order of transfer is in violation of law or statutory rule and in view of the law laid down in State of U. P. -Vs-Gobardhan Lal (Supra), no order can be passed on the application.</p> <p>However, as prayed for on behalf of the</p>	

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SCN.	<p>applicants since the representations dated 2<sup>nd</sup> August, 2019 have been filed by the applicants, the application is disposed of by directing the Secretary, Department of Women and Child Development and Social Welfare, Government of West Bengal, the respondent no.1, to dispose of the two separate representations filed by each of the applicants, appearing at pages 14 and 15 of the application, by passing a reasoned order to be communicated to the parties within four weeks after the applicants have joined their respective transferred posts after giving an opportunity of hearing and after verifying the records.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	