

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 911 OF 2018

MALAY CHATTERJEE 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 13.12.2018</p>	<p>For the Applicant : Mr. J. Mukherjee Mr. K.N. Mukherjee Mr. S. Mukherjee Advocate</p> <p>For the Respondents: Mr. G.P. Banerjee Advocate</p> <p>Affidavit of service filed today be kept on record. We find that the applicant has served copies of the application on the Secretary, Department of Health and Family Welfare, Government of West Bengal, the respondent no.1 and the Superintendent, Deben Mahato (Sadar) Hospital, Purulia, the respondent no.5 and respondent no.2, 3, 4, 6 and 7 are yet to be served.</p> <p>It is submitted by Mr. J. Mukherjee, learned advocate for the applicant that since the two answering respondents have been served, knowing fully well this is a mercy petition, as the applicant is in great difficulty as evident from the grounds particularly paragraphs 7 (x) and (xi) of the application, the matter may be taken up for hearing and necessary orders may be passed.</p> <p>Despite service of notice none appears on behalf</p>	

ORDER SHEET

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	<p>of respondent nos. 1 and 5. Though we are conscious that the respondent nos. 2, 3, 4, 6 and 7 are yet to be served, however, in view of the submission made on behalf of the applicant, Mr. G.P. Banerjee, learned advocate who normally appears on behalf of the State is requested to appear in the matter. Let a copy of the original application be served on him which is served and accepted. Let the appointment of Mr. Banerjee be regularised by the learned Legal Remembrancer.</p> <p>Though the matter has appeared in the list under the heading “To Be Mentioned”, on the prayer of Mr. J. Mukherjee, assisted by Mr. K.N. Mukherjee and Mr. S. Mukherjee, learned advocates, the matter is taken up for hearing to which Mr. Banerjee, does not oppose in his usual fairness.</p> <p>In this application, the applicant, a Medical Technologist (Laboratory), posted at Purulia M/s. Speciality Hospital, Purulia, has challenged the order transferring him to Purbasthali Rural Hospital, Purba Bardhaman followed by release order dated 29th October, 2018, appearing at page 22 of the application. It is submitted on behalf of the applicant that since his wife is suffering from an incurable disease and a large sum of money has been spent for treatment and his son and daughter are studying in good educational institutions and</p>	

ORDER SHEET

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	<p>since the applicant himself is indisposed, for the ends of justice appropriate order may be passed.</p> <p>Mr. Banerjee submits that since transfer is a part of one's service career, no order may be passed.</p> <p>Heard Mr. Mukherjee and Mr. Banerjee, the learned advocates for the parties. Evidently, the petitioner has been transferred from Purulia to Burdhaman. Under the settled principle of law laid down by the Supreme Court, transfer is a part of one's service career. A transfer order cannot be interfered with lightly unless it is mala fide or is in violation of statutory rules. In the application there is no statement that the order of transfer is mala fide or is in violation of the statutory rules. However, as it has been stated on behalf of the applicant that his wife is suffering from incurable disease and is undergoing treatment and as the children are studying in good educational institutions, and as it has been submitted by Mr. Mukherjee, on instruction from his client, who is present in the court, that the applicant is ready to join at Burdhaman by 2nd January, 2019 and for a direction upon the respondents to consider a representation if filed, subsequent to the joining at the transferred post, for re-transfer in or around Purulia, considering such fact this application is disposed of by directing him to join at the transferred post by 2nd January, 2019. After he joins and</p>	

ORDER SHEET

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SCN.	<p>submits the joining report, the applicant will be at liberty to file a representation ventilating his grievances, annexing copies of the relevant documents, before the Director of Health Services, West Bengal, Kolkata, the respondent no. 2 by 18th January, 2019 along with a copy of this order. If filed, it will be considered sympathetically and disposed of by the Director of Health Services, West Bengal, Kolkata, the respondent no.2 by passing a reasoned order to be communicated to the parties within four weeks after giving an opportunity of hearing to the applicant and after verifying the records. It is made clear that the respondent no.2 will consider the application after the applicant had joined at the transferred post.</p> <p>As prayed for, so far as condoning the period of absence at Purulia is concerned, since it appears that he is not attending office after release order was issued, the applicant is at liberty to file a representation before the Superintendent, Deben Mahato (Sadar) Hospital, Purulia, the respondent no.5 for regularisation of his duties which shall be considered by the said respondent no.5 by passing a reasoned order in accordance with law within four weeks after giving an opportunity of hearing.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	