

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL
Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. OA – 639 of 2024

Subir Saha - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. Saikat Sutradhar, Learned Advocate.
<u>5</u> 04.09.2025	For the Respondents	: Mr. S.N. Ray, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has prayed for a direction to the respondent authorities to quash and set aside the transfer order being No. 3593 dated 30.09.2024 issued by the Director of ICDS. Mr. S. Banerjee, learned counsel prays for stay of the transfer order since the incumbent so transferred is a mere Peon and further, he has obligations in the family to look after his ailing mother. Such a transfer order would be a harsh punishment on him.

Order 3593 dated 30th Sept., 2024, the applicant, a peon posted at Dhaniakhali ICDS Project, Hooghly was transferred to Jorebunglow-Sukhiapokhri ICDS Project, Darjeeling. The Director who signed the transfer order mentioned public interest as the reasoned for such transfer. The Hon'ble High Court in WPA/30149/2024 in its order dated 20.12.2024 permitted the petitioner to join at his transfer place within three weeks. The Hon'ble Court also "Made it clear that in the event, the petitioner fails to join at the transfer place on expiry of three weeks without their being any further restrained order from WBAT. In this regard, the employer shall, however, be able to take appropriate legal steps in accordance with law".

It is not known to the Tribunal whether the applicant had complied with the above order and joined his new place of posting. It reveals from Memo 480 dated 10.12.2024, the applicant was released by the CDPO, Dhaniakhali ICDS Project further directing him to join his new place of posting. However, copies of Memorandums submitted before the Director, ICDS by the "Sangrami Joutha Mancha" on 23.10.2024 request for reconsideration of the transfer order to the applicant. The Tribunal also does not find that the applicant himself had furnished any representation before the respondent authorities requesting reconsideration of the transfer order. The primary

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reasons given by the applicant for his grievance in joining his new place of posting as can be observed in his application is that the new place is 625 kilometre from his residence. It also appears from the application at paragraph 9 that the applicant had participated in a protest rally, “Nabanna Abhujan” protesting against an incident, which occurred at RG Kar Medical College and Hospital. The applicant also refers to a transfer policy issued by the Labour Department in Memo 501-GR dated 20th February, 1996.

Having heard the parties and after proper examination of the records, the Tribunal is of the following observations:-

- (i) It is now well settled law that a Government servant is liable to be transferred towards similar post and no employee can claim to remain in a particular place or a particular post.
- (ii) Transfer is an ordinary incident of service and therefore, transfers do not alter the nature of service. Similarly, an employee cannot, as a matter of right, neither disobey such transfer orders nor seek transfer to a place of his choice. By very nature of such appointment, transfer is an integral part of the service. From this, it is to be accepted that no Government employee has vested right to remain at one place.

The relevant part of order in (2004) 11 SCC 402 is cited given below:

“It is too late in the day of 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.”

The Hon’ble Supreme Court in the same order also discourage of the courts and Tribunals to desist from interfering in transfer matters.

The Tribunal is of the aware that the new place of posting in the District of Darjeeling is far of from his last place of posting. However, it is to be appreciated that his new District of posting, Darjeeling is also a part of the State and no employee can disobey compliance to such transfer order on the ground that it is far of from his place of residence. As is known, this applicant is an employee of the ICDS Project which

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also has its presence in the District of Darjeeling.

From the direction of the Hon'ble High Court in this matter, it is expected that the applicant has already joined his new place of posting. Although this Tribunal desists from interfering with the transfer order, however, it gives liberty to the applicant to furnish a prayer before the respondent authority, praying for his transfer to a place of his choice. Such representation, if so wished, be filed before the respondent authority within two months from the date of communication of this order. If such representation is filed by him, the respondent no. 4, Director of ICDS Project is requested to consider the grounds in the prayer and dispose of the same within three months from the date of submission of such representation by the applicant.

The interim order dated 03.01.2025 is thus vacated.

This application is disposed of.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P.