

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-**

**THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,**

**Case No. - OA 107 OF 2025**

**SHANKAR DAYAL - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and  
Date of order

05  
04.09.2025

For the Applicant : Mr. Sankha Ghosh  
Mrs. Subarna Das  
Advocate

For the State respondents : None

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

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for a direction to the respondent authorities to set aside the impugned transfer order No. 1495M dated 27.07.2023 from Raj Bhavan, Kolkata to Raj Bhavan, Darjeeling issued by the Deputy Secretary to the Governor of West Bengal & Comptroller in Charge and to regularise the period of absence of the applicant. The applicant is a Sweeper holding a post of Group-D.

Submission of Mr.S.Ghosh, learned counsel for the applicant is that as per prevailing norms, no Group-D employee is to be transferred outside more than 20 Kms. of his residence. The Guideline for transfer of Group-D employees states that "In all cases of transfer of Group-D employees, the posting should be restricted within 20 Kms. range from his normal place of residence."

Mr.S.Gupta, learned counsel for the State respondents had submitted on the last date of hearing that transfer of a particular employee from one place to

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other is not only an incident, but a condition of service and he relies on a judgement of Hon'ble Supreme Court of India passed in (2001) 8 Supreme Court Cases 574 : 2002 Supreme Court Cases (L&S) 21 : 2001 SCC OnLine SC 1086. The relevant paragraph of the judgement is as under:

*“No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the Tribunals cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the management, as against such orders passed in the interest of administrative exigencies of the service concerned.”*

While disputing that the post of Group-D is not a promotional post, Mr. Ghosh, also presents a copy of Memo issued by the Finance Department being No. 9770-F dated 19th August, 1983 and submits that the transfer policy of Group -D employees are covered by this Notification. Therefore, in compliance to such Notification, the transfer order dated 27.07.2023 be set aside.

Mr. Ghosh also stresses that not only this transfer order was bad in law, but also ignored his medical condition. In support of this, reference is made to the medical report in this application. One such medical report appears to be from the Medical College & Hospital, Kolkata, in which the applicant has been advised to regular check up.

Considering the Notification No. 9770-F which is a guideline for transfer

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of Group-D employees and also considering that the applicant has a medical problem, the Tribunal comes to the finding that the respondent authority was either not aware of such transfer policy of Group –D or ignored it. The Tribunal also finds that besides ignoring such transfer policy, his medical condition, as evident from the records submitted by the applicant from the Government Hospital, the transfer and release of the applicant was not in conformity with the prevalent rules. The respondent was also insensible to that fact that a Group-D whose resides at Quarter No. E-7, Raj Bhavan has been ordered to serve in another district which is about 600 Kms. away from his residence.

With the above observation, the Tribunal finding the Transfer Order vide Memo. 1495M dated 27.07.2023 untenable and violative of natural justice is quashed and set aside. The applicant had furnished a representation dated 10.08.2023 praying for his posting to some other places, other than Raj Bhavan, Darjeeling. Such representation be considered and an order be passed within 3 (three) months from the date this order is communicated and a copy be served to the applicant within 2 (two) weeks thereafter.

This application is disposed of.

**(SAYEED AHMED BABA)**  
**OFFICIATING CHAIRPERSON AND MEMBER (A)**

BLR