

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 219 of 2024.

CHANDONA ROY - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

04  
14.11.2024

For the Applicant	: Mr. S. Chakraborty, Learned Advocate.
For the State Respondents	: Mr. G. P. Banerjee, 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 (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.

In this application, the applicant has prayed for setting aside the impugned reasoned order passed by the Commissioner of School Education on 05.02.2024. Such a reasoned order was passed in terms of the direction of this Tribunal in OA -766 of 2023. The Tribunal had directed the respondent authority to consider the representation of the applicant working as an Assistant Mistress in Maharani Indira Devi Balika Vidyalaya, Coochbehar who had sought a transfer to any school in and around Kolkata and North 24 Parganas district. The reasoned order regretted such consideration on the following two grounds. (i) That no such vacancy of Assistant Mistress exists in any of the schools in Kolkata/ North 24Parganas and (ii) an application for transfer cannot be considered by superseding application for transfer of a senior teacher in the same subject in the same school. Mr. Chakraborty, learned counsel, however, disagrees and taking reference to a Memo No. 197 dated 19.08.2023 argues such a vacancy is still exists in Barasat PCS Government High School. During the hearing earlier, Mr. S. P. Lahiri had submitted that the Senior teacher referred to in the reasoned order Smt. Madhuri Haldar had requested a transfer to any school in Kolkata whereas the applicant has requested for such transfer not only in Kolkata, but neighbouring district of North 24-Parganas. Consideration of a transfer cannot be regretted on the ground that a senior had also prayed for such transfer. Mr. Banerjee, learned counsel for the State respondents had pointed out that the Memo. referred to by Mr. Chakraborty indicating some vacancy is dated 19.08.2023, since then

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such position may have been changed.

This applicant had approached this Tribunal on the same ground by filing the application OA 766 of 2023. In terms of a direction, the Commissioner of School Education had explained in detail his inability to consider such prayer for transfer order. Still persistent, the applicant has filed this application on the same ground, which is her transfer to a school in and around Kolkata. The Tribunal reminds itself of the direction of the Hon'ble Supreme Court in (2004) 11 Supreme Court Cases 402 in the matter of State of Uttar Pradesh and Others – versus- Gobardhan Lal. In this judgement, the Hon'ble Apex Court had restrained the Tribunal from interfering into transfer order. The relevant words of the Hon'ble Apex Court in the judgement is cited below :-

*“....A challenge to an order of transfer should normally be eschewed and should not be countenanced by the courts or tribunals.....except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer....”.*

The Tribunal is satisfied that the Commissioner has been transparent in regretting why her prayer for transfer to Kolkata/neighbouring districts cannot be accepted at this moment since no such vacancy is available. It is the prerogative of the respondent authority on such matters and not desirable for the Tribunal to interfere into their routine administrative matters. Further, the Tribunal does not find any malice or prejudice shown to the applicant while not considering her prayer for transfer.

This application is disposed of without passing any order.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A)

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