

**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 565 of 2024**

**Tanmay Ray -- VERSUS – The State of West Bengal & Others**

Serial No. and Date of order	For the Applicant	: Mr. Saurab Roy, Advocate.
<u>04</u> 10.01.2025	For the State Respondents	: Mr. Goutam Pathak Banerjee, 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.

The applicant has prayed for setting aside the impugned memo No.1062, dated 28.10.2024. By this internal office order, the applicant, a Medical Officer, earlier serving as Medical Officer, Blood Bank, was reallocated his assignment as E.R., Outdoor.

Learned counsel on behalf of the applicant had submitted that the appointment letter as well the posting order were issued on behalf of the Hon'ble Governor in Memo No. 1554 dated 24.12.2021. By this order of the Governor, the applicant was appointed and posted as a Medical Officer (Specialist), Blood Bank at Canning SDH, South 24 Parganas. By this order, it is evident that the applicant was a Medical Specialist and also such an appointment and posting was done by the Governor. However, the Superintendent, Canning SDH Hospital took upon himself the power and responsibility to re-designate the applicant from the post of a Specialist to a non-specialist with designation of E.R, Outdoor. By passing such an order, the Superintendent has breached the protocol and exceeded his brief. Further, in terms of Notification No. HF/O/MA/3431/1M-01/11 dated 09.11.2011, a medical specialist has to serve such a post for at least 5 years at one place of posting. However, in this case, the applicant as a specialist was not only transferred but was also relegated to a non-specialist post, in violation of the notification. Mr. Karar also argues that such posting order is not only contrary to existing transfer policy but was also done as a

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vindictive act against the applicant. The applicant was earlier issued a show-cause for his alleged illegal monetary transaction which was replied by the applicant refuting such allegation.

Learned counsel for the respondent had submitted that such re-shuffling of the assignment within the hospital by the Superintendent, with due consent of the C.M.O.H., is not only an internal administrative matter, but also temporary in nature.

Learned counsel for the respondent had submitted that the notification referred to by Mr. Karar relates to transfer but in this case, it is not a transfer but an internal arrangement to meet the exigencies of the hospital. By issuing such internal order, the Superintendent had taken prior approval of the Chief Medical Officer of Health. Therefore, such orders issued were very much within the domain of the authorities.

Having heard the submissions of the learned counsels and considering the main issue involved in this application, the Tribunal is of the clear opinion that the respondent authority has the discretionary powers in the larger interest of the public health to effect changes relating to the roles and responsibilities of an employee. The contention of the applicant's side that the Governor, being the Appointing Authority neither the Superintendent of the Hospital or the Chief Medical Officer of the district, does not have any authority to transfer the applicant, is not at all valid. In this case, the Superintendent of the Hospital with consent of the Chief Medical Officer of Health had brought a minor administrative change relating to the responsibilities of this applicant and two others. In the opinion of this Tribunal, the Superintendent of the Hospital, being responsible for managing the Sub-Divisional Hospital has every discretion and power to make changes in the roles of his Medical Officers under him. In this case, vested with such authority, he had also obtained the consent of his superior, the Chief Medical Officer of Health. The Tribunal also recalls

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an order of Hon'ble Apex Court in (2004)11 SCC 472 in the matter relating to Govardhan Lal –Vs.- D. K. Shukla and Others. In this order the Hon'ble Court had clearly discouraged Courts and Tribunals not to interfere into the administrative matters in the following words : -

*“This Court has often reiterated that the order transfer made even in transgression of administrative guidelines cannot also be interfered with. The challenged to an order of transfer are clearly be eschewed and should not be countenanced by the Courts or Tribunals”.*

In view of this Tribunal's observations and in view of the order of the Hon'ble Supreme Court, this Tribunal is not inclined to interfere and assail Memo. 1062 dated 28.10.2024 passed by the Superintendent, Canning S D Hospital, Canning, South 24-Parganas.

This application is disposed of without passing any orders.

SAYEED AHMED BABA  
Officiating Chairperson & Member (A)

S.M.