

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 772 of 2023.

JAHAR DEY - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

02
08.02.2024

For the Applicant : None.

For the State Respondents : Mr. S.N. Ray,
Learned Advocate.

For the Principal Accountant General
(A & E) W.B. : Mr. B. Mitra,
Departmental representative.

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 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

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

The applicant has prayed for a direction to the respondent authorities to transfer him from Malda to Calcutta. Earlier, the applicant had filed an application before this Tribunal being OA 479 of 2023 praying for cancellation of the transfer order. Such a transfer order was issued by the authorities transferring the applicant, an UDA from Alipore to Malda. The Tribunal had directed the respondent authorities to consider his representation. In compliance to such direction, the Chief Engineer(Mech/Elec) Southern Zone, P.H.E. Dte passed a reasoned order. The reasoned order relies on Notification No. PHE-I/887/2E-36/89 dated 29th April, 1989 in which clause IV provides that the UD clerks who have completed five years of continuous service in a particular place of posting are bound to be transferred to other places. The reasoned order also observes that the applicant had not exercised his option within one year from the date of issue of transfer order. In any event, this transfer was initiated on administrative ground owing to strengthening of the man

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power for the “Jal Jiban Mission” in the district of Malda.

Having noted the prayer and the reasoned order, the Tribunal has come to the conclusion that such transfer orders are not only an administrative matter, but, also the discretion of the respondent authorities. The reasons given in the reasoned order had observed that, not only the employee had come under the zone of transfer for having stayed in the previous place of posting at Alipore for more than five years, but also due to the fact that his service is required in the interest of drinking water mission at Malda “Jal Jiban Mission”. The Tribunal has become aware of the fact that the Hon’ble Apex Court in (2004)11 SC Cass 402 in the matter of Gobordhan Lal-Vs- State of Uttar Pradesh and others has made it clear for the Courts and the Tribunals not to interfere in such matters of transfer. The judgement has made it clear that transfers are incidents of service and should not be interfered with as a matter of course or routine.

Further, the Tribunal has not found any, nor the applicant has expressed any malice against this applicant while transferring him from Alipore to Malda. His representation for transfer from Malda to Calcutta has already been considered by the respondent authorities in terms of this Tribunal’s direction. Therefore, the Tribunal does not find any merit in the prayer of this application and thus disposed of without passing any orders.

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

Skg.