

**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 776 of 2022**

**Niren Malakar & Another -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicants : Mr. G. Halder,  
Ld. Advocate.

For the State Respondents : Mrs. S. Agarwal,  
Ld. Advocate.

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15.05.2025

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 applicants have filed this application praying for setting aside the impugned transfer order passed vide memo no. 1687 dated 28.11.2022. The contention of the applicants' side is that although the operation of the first transfer order relating to applicants were stayed vide Tribunal's order dated 13.09.2022, but circumventing the stay order, the respondent authority passed a new order vide memo. no. 1687 dated 28.11.2022. By this order, the applicants' original transfer order was given effect without any cancellation of the first order. Mr. Roy has given the example of the applicant no. 1 – Apurba Sarkar, who was transferred from Krishnnagar Sadar Sub-Divn, Nadia to Malda Sadar Sub-Divn. Vice Golam Kibria Malithya. In the new transfer order issued vide memo no. 1687 dated 28.11.2022 appearing at serial no. 115, Apurba Sarkar was again transferred from Krishnanagar Sadar Sub-Divn, Nadia to Malda Sadar Sub-Divn. Vice Golam Kibria Malithya. The only difference which can be seen in both these orders is that the first transfer order issued on 22.07.2022 was signed by the Commissioner of School Education and in the second transfer order which was signed by Secretary to the Government of West Bengal. By the above example, Mr. Roy submits that with the intention to subvert and avoid this Tribunal's interim order, the respondent authority passed a similar transfer order at a later stage which is against the principles of justice.

Mrs. Agarwal has submitted that transfer of employees is the prerogative of the Administrative Department. Such transfer order was made in terms of the Department's transfer policy in memo. no. 937 dated 29.11.2011.

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The Tribunal finds that another application being OA 563 of 2022 was heard and disposed of by order dated 15.05.2025 – in which the transfer order vide memo 898 dated 22.07.2022 was challenged by the applicants. In this application, another transfer order vide memo 1687 dated 28.11.2022 has been assailed by the applicants. It is observed that in both the transfer orders – 898 and 1687 contain a list of 196 officers holding the rank of Assistant Inspector of Schools. The names of all the officers are also same. Both the transfer orders start with Nripen Biswas at serial no. 1 and ends with Tonmay Biswas at sl. 196. The only difference between the two orders is evident from the designations of the official : Memo 898 dated 22.07.2022 was issued by the Commissioner of School Education and the other memo. 1687 dated 28.11.2022 was issued by the Secretary, School Education Department in the name of the Governor.

The transfer order in memo 898 dated 22.07.2022 which was assailed before this Tribunal in OA 563 of 2022 was earlier disposed of without passing any order in favour of the applicants. The Tribunal had not found any illegality or infirmity in the transfer order assailed by the applicants in the earlier application. Since the impugned transfer order – memo. 1687 of 2022 being assailed in this application contains the names of the same Assistant Inspector of Schools, the Tribunal does not find it relevant and necessary to pass any order in this application.

This Tribunal is also guided by several judgments of the Hon'ble Supreme Court relating to interference of the Tribunals in matters of transfer of employees. The relevant paras of one such judgment passed in (2004) 11 SCC 402 is cited below :

*“It is too late in the day for 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.”*

*“This Court has often reiterated that the order of transfer made*

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*even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights.”*

*“A challenge to an order of transfer should normally be eschewed and should not be countenanced by the courts or tribunals”.*

Therefore, in view of the above findings, this application is **disposed of** without passing any order.

Interim reliefs, passed in this application, if any, is vacated.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

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