

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 814 OF 2023

DR. NABANITA BAIDYA BISWAS - Vs - THE STATE OF WEST BENGAL & OTHERS

Serial No. and

Date of order

For the Applicant : Mr.Goutam Pathak Banerjee
Advocate

02

21.12.2023

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 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, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the Notification dated 05.12.2023 issued by the OSD & Special Secretary of the Department. The notification being challenged is the transfer order, transferring the applicant from CNMCH, Kolkata to MJN MCH, Cooch Behar. The applicant has furnished a request for cancellation of the order before the respondent No. 7, the Director of Medical Education on 11.12.2023. In this representation, the applicant mentions about her autistic child who is in need of regular therapy. By being transferred to such a distant place, the applicant is afraid that as a parent she will not be in a position to look after her son who needs in constant care and monitoring.

Mr.G.P.Banerjee, learned counsel for the applicant draws attention to page 18 in this application which appears to be a Disability Certificate issued by NSMCH, Kolkata in which disability has been shown as "severe" at 90%. A Notification No. 2784 dated 25.02.2004

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has also been presented before this Tribunal. In this Notification, it appears that the Department of Health and Family Welfare has made some relaxation in matters of posting and transfer for parents of dependant physically or mentally handicapped offspring.

Submission of Mr.Banerjee is a direction may be given to the respondent authority to consider the prayer in this application and allow her to continue duty at the present posting, Kolkata National Medical College and Hospital.

Having heard the submissions of the learned counsel and considering the fact, as presented that the child of the applicant has been certified to be physically / mentally disable at 90%, the Tribunal directs the respondent No.3, OSD & Special Secretary to consider the representation of the applicant in the light of facts presented above within a period of six weeks from the date of communication of this order and pass a reasoned order.

Accordingly, the application is disposed of.

BLR

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