

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-322 of 2025 (MA-67 of 2025 and MA-82 of 2025)

Sudip Chanda. -- VERSUS – The State of West Bengal & Others

Serial No. and
Date of order

For the Applicant

: Ms. S. Goswami,
Mr. S. Sutradhar,
Learned counsels.

04

04.09.2025

For the State Respondents

: Mr. G. P. Banerjee,
Learned counsel.

For the Respondent Nos. 5
and 6.

: 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.

The matter is heard analogously.

The Hon'ble High Court in WPST -127 of 2025 dated 19.06.2025 was pleased to set aside the order of this Tribunal passed on 19.06.2025 and remanded the matter to the Tribunal to consider it afresh.

By order no. 06/Estt. dated 07.05.2025, Directorate of Micro, Small and Medium Enterprise (MSME) transferred the applicant from the headquarters to Kalchini Block, Alipurduar. By another order no. 15/Estt. Dated 27.05.2025, the applicant was released with a direction to join his new place of posting. After conclusion of the pleadings, the Tribunal, not finding any merit in the prayers for setting aside the transfer order, disposed it of without passing any orders. The submissions of the learned counsels representing the parties were well covered in the order dated 19.06.2025.

The State authorities were also directed not to insist for execution of the 2nd Release Order dated 19.06.2025. The Hon'ble Court left it to the Tribunal to decide independently without being influenced.

This Tribunal after hearing all the sides afresh and examining all relevant records properly have observed the following :-

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In terms of direction of the Hon'ble High Court in WPST 127 of 2025 replies and rejoinders have been filed and exchanged. The Hon'ble High Court had given liberty to the applicant to assail the order dated 19.06.2025.

The two core issues involved are :-

- Whether the transfer order was issued by the competent authority ; and
- Whether such transfer order was vindictive in nature or not.
- Whether the Release Orders were lawful or not.

Mr. Lahiri, learned Senior Counsel had submitted his views relating to the core issue in MA-82 of 20205 which is for release of the applicant's salary for the month of July, 2025. By order dated 25th June, 2025, the Hon'ble High Court passed directions upon the respondent authorities to grant liberty to assail the order dated 19.06.2025 being the second release order and also directed that the authority should not insist for compliance of the second release order. Further, they cannot be two release orders concerning one single transfer order. In this case, as evident the applicant was issued two separate release orders under the same transfer order – 1st order on 27th May, 2025 and the 2nd order on 19th June, 2025. However, in spite of that the authorities are still insisting for execution of the second release order by proceeding on a misconceived notion that "The Hon'ble High Court Division Bench had not given any stay on the 'stand-release order'. This insistence is contrary to the orders of the Hon'ble High Court Division Bench and the authorities should be directed to release the unpaid salaries.

Coming to the core issue involved in the main application, being OA-322 of 2025, Mr. Lahiri sums up his arguments in the following words :-

Sudip Chanda, the applicant who is under orders of transfer is a

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leading face in the movement demanding release of Dearness Allowance to the State Government employees at par with the Central Government. By such transfer order, not only the applicant was singled out as a punishment for raising his voice against the State Government but also the order is a clear expression of the State's vindictiveness against the applicant. The applicant, being the General Secretary of West Bengal Industrial Development Officers' Welfare Association had addressed several representations to the Government pointing out malpractices in matters of transfer by Respondent No. 6, Satyajit Swarnakar. Satyajit Swarnakar is not only the Head Assistant (Establishment) of the Directorate of Micro, Small and Medium Enterprise (MSME) but also is an active office bearer of is an Association titled, "Paschimbanga Rajya Sarkari Karmachari Federation". Being a leader of a rival Association, the Respondent No. 6 is behind such transfer order of the applicant. In support of his contention Mr. Lahiri draws attention to a Memo. No. D/27 dated 25th March, 2025 in which the designation of the Respondent No. 6 appears. Mr. Lahiri also draws attention to page-117 in which the rival Association, in which the Respondent No. 6, Satyajit Swarnakar is a signatory, had recommended transfer of the applicant from Directorate, Headquarter to Kalchini Block, Alipurduar. Such recommendation clearly shows that this Association was behind such transfer orders.

Mr. Lahiri relying on a RTI reply dated 10.07.2025 also submitted that this is the first time a senior Industrial Development Officer (IDO) having more than 15 years of experience has been transferred to a Block which is more than 500 Kms. from the Headquarter.

Mr. G. P. Banerjee, learned counsel appearing on behalf of the State respondents had argued in following ways :-

He had submitted that such release order for the second time was initiated because the first release order dated 27.05.2025 was being assailed

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by the applicant's side before the Courts. The second release order dated 19.06.2025 was required to be issued after the Tribunal disposed of the application on 19.06.2025. The Tribunal in its order had not accepted the plea of the applicant for staying of the transfer order. Issue of the second release order in continuation of the earlier release order is not barred by any law and the respondent authorities in its discretion found it necessary to pass this second release order to expedite the execution of the transfer order.

Regarding release of his salary for the month of July, 2025, the respondent authorities in their replies have clearly explained the process of HRMS. Since a release order was issued to the applicant and his service particulars were transferred to his new place of posting at Kalchini Block, therefore, the previous office was not technically competent to release his salary for the month of July, 2025. Since the applicant had not complied with the release order and not joined the new place of posting, his salary for the month of July onwards could not be released by the Block Development Officer (BDO), Kalchini, being the Drawing and Disbursing Officer (DDO). Salary of an employee can be processed only after his service particulars are activated in the HRMS. Mr. Banerjee, however, assures that his pending salaries can be released to him once he joins the new place of posting.

Responding to the core issue in this case, which is stay of the transfer order dated 07.05.2025, Mr. Banerjee argued that this applicant enjoyed his posting in the headquarters at Kolkata for the last 11 years.

Mr. Mukherjee, learned counsel who appeared on behalf of the Respondent Nos. 5 and 6 had submitted that he supports all the points of submissions made by Mr. Banerjee on behalf of the State respondents. Mr. Mukherjee emphasised the conditions of appointment as stipulated in the appointment letter no. 786 dated 29.4.2007 and submits that every single appointee to a government post is required to comply with the transfer orders made by the competent authority. The Director MSME, being the

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competent authority had issued such transfer order under the Rules.

He also laid emphasise the following condition contained in the appointment letter issued to the applicant :-

“His service in the post will be governed by the appropriate rules in force and is liable to be transferred in anywhere in West Bengal as and when required.”

Having heard the submissions in detail and having examined the documents thoroughly, the Tribunal is satisfied that the Director was the competent authority to issue such transfer orders for Industrial Development Officers working under his Directorate. This Tribunal is of the view that the applicant on transfer has not presented any cogent and justifiable reason for assailing the transfer order. From the statements made by the applicant, it is apparent that due to ill-founded reasons he insists on working at Kolkata Headquarter only. The allegation from the applicant's side that his transfer was an act of vindictiveness is not convincing to this Tribunal primarily for the reason that the same transfer order issued vide Memo. No. 06 dated 07.05.2025 had transferred of total of 26 Industrial Development Officers, including this applicant. It is not correct and acceptable to say that the applicant has been singled out and punished with such transfer for the reason that it was on purely administrative ground these 26 Industrial Development Officers were transferred to different places. An employee has to accept the fact of service conditions that the State Government, as the employer, has the full discretion to transfer any employee. The applicant cannot take shelter of this forum and refuse to join his new place of posting on the ground that it is 500 Kms. away from the headquarters. The new place of posting, Kalchini, Alipurduar, although far away from the headquarters is very much an integral part of the State and each State Government employee is bound to serve the interest of the State in any part of it. Mr. Banerjee had pointed out that this Kalchini Block in Alipurduar District was not

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benefitting from any industrial development, primarily for the reason that no Industrial Development Officer was posted there for quite a long period of time.

Having stated the above points, the Tribunal further feels that initiatives for welfare activities for betterment of employees can be undertaken from any place of posting in the State. For such welfare work, one need not be located only in Kolkata.

The undisputed and admitted fact that he has been serving with the Directorate at Kolkata Headquarters for more than 15 years also cannot be ignored. The post of an Industrial Development Officer (IDO) is not confined only to Kolkata, but is spread in all the districts. As an IDO, his responsibility lies in assisting the District Administration to improve industrial infrastructure in the districts.

The argument that his activities with an Association led to such transfer is also not tenable. A Government employee must remind himself that his duty and responsibility is primarily with the employer and not to his Association. It is obligatory on his part, as an employee first to comply with the directions of his employer. Lest he forgets he is part of the official hierarchy and his roles and responsibilities are well defined.

The Tribunal emphasises that transfers are incidental to the service life of an employee and it is the prerogative of the Government to effect transfers of its employees across the length and breadth of State. This applicant, having served in and around Kolkata since 2014 does not have the legal right to agitate against such transfer order. He may be holding the post of a Secretary of an Employees Association but first and foremost, his duties and responsibility lies with the employer and it is obligatory on his part to follow the orders of the competent authority.

The State Authority, as the employer, while exercising the power of transfer is not dependent upon the consent of the employee. Hon'ble

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Supreme Court and the Hon'ble High Court have consistently pointed out that the transfer is one of the incidents of Government service and therefore, it is implied that it is a part of condition of Government service. It is also to be kept in mind that the power to transfer an employee is the complete domain of the authority and Hon'ble Supreme Court has in several cases discouraged the Tribunals from interfering in such matters.

The Judgment of Hon'ble Supreme Court reported in (2004)11 SCC 402 : State of U.P. and Others-Vs.-Gobardhan lal observed, that : -

“7. 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.

- *Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine.*

- *Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest.*

- *This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights.*

8. 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

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ordinarily be made with an order of transfer.”

With the above observations and not finding any merit in the applicant's prayers, these applications (OA-322 of 2025, MA-67 of 2025 and MA-82 of 2025) are disposed of.

The respondent authority is to ensure that his unpaid salaries be cleared once his service details are activated in the HRMS of Kalchini Block, Alipurduar once he joins there.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

S.M.