

**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**

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

Serial No. and Date of order 02 19.06.2025	For the Applicant	: Ms. Sinjini Chakraborty, Learned counsel.
	For the State Respondents	: Mr. Goutam Pathak 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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The prayer in this application is for setting aside the transfer order No.06/Estt dated 07.05.2025 and the release order No.15/Estt dated 27.05.2025, issued by the Director, Micro, Small and Medium Enterprises.

The applicant, an Industrial Development Officer, attached to the Directorate of Micro, Small and Medium Enterprises (HQ), was transferred to Kalchini Development Block, Alipurduar on 07.05.2025. Being aggrieved by the said transfer order and subsequent release order dated 27.05.2025, he approached the Hon'ble High Court at Calcutta. The Hon'ble Court, by its order dated 03.06.2025, stayed the release order dated 27.05.2025 and directed the Tribunal to decide the matter independently after its reopening on 09.06.2025. The stay was effective till the Tribunal passes its order.

Mr. B. Banerjee, learned counsel appearing on behalf of the applicant terms this transfer and release order as arbitrary, malicious, unfair and against principles of natural justice. The primary contention of Mr. B. Banerjee is that the transfer order was motivated by an Employees Association. A copy of such Association's letter proposing the name of the

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applicant to be posted at Kalchini Development Block, Alipurduar is being shown to the Tribunal. Mr. B. Banerjee further submits that such transfer is a deviation from the guidelines regulating transfer of Government servants. He has presented a copy of Memo. 2433 dated 17.06.2009 issued by the Directorate of Panchayats and Rural Development, West Bengal. It has also been alleged by the applicant that one Head Assistant (Establishment), being the working President of Paschimbanga Rajya Sarkari Karmachari Federation was behind such transfer order.

Appearing on behalf of the State respondent, Mr. G. P. Banerjee, learned counsel, defending the action of the respondent authority, submitted that such transfer order was routine in nature and issued for administrative reasons. There was neither any malafide intention nor any vindictive motive behind such an action. Mr. G. P. Banerjee also pointed out that, as evident from the transfer order, it was not only the applicant but a total of 25 other employees holding the same post as Industrial Development Officer, were also transferred by the same order. He has also pointed out that the applicant has been serving in the same place since 2014, therefore, it cannot be said that he was singled out and his transfer was vindictive in nature. On being asked by the Tribunal whether the administrative authorities had accepted the recommendation of an Employees Association proposing such transfer, Mr. G. P. Banerjee, having examined the purported document appearing at page -117, categorically refuses the allegation of the applicant and terms this document as a fake document. He further submitted that no Reply is necessary in this matter and therefore, no Reply on behalf of the respondents will be filed.

Mr. M. K. Mukherjee, learned counsel appearing on behalf of the respondent no. 5 and 6 also states that such a document relied on by the applicant is a fake document and its existence is denied.

From the submissions of the learned counsels and from the records in

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this application, the Tribunal observes the following :-

- i. The primary reason contesting the transfer order appears to be the allegation that on the recommendation of an Association such transfer order was issued. However, the purported document of the Association presented by the applicant's side at page -117 is not at all a clear copy. The Tribunal finds this document to be completely darkened where the entries are also not very legible to read. The document so presented and relied on by the applicant's side is not admissible.
- ii. The argument of the applicant's side that the transfer and released order is malafide and bad in law also does not satisfy this Tribunal for the reason that this transfer order issued in Memo. No. 06 dated 07.05.2025 has a total of 26 names holding the post of Industrial Development Officers. It is true that the applicant, Sudip Chanda has been transferred from the Head Office of the Directorate to Kalchini Development Block, Alipurduar district. Similarly, the Tribunal finds that at least six other Industrial Development Officers have been transferred from their offices in and around Kolkata to distant districts like Darjeeling, Cooch Behar, Malda, Bankura and Purulia. Being Industrial Development Officers, their primary responsibility is development of Micro, Small and Medium Industries in the districts.
- iii. It has also been informed to the Tribunal that all other 25 Industrial Development Officers have complied with the transfer order, save and except, this applicant.

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- iv. It is also understood that the applicant happens to be the Secretary of an Employees Associations and relies on a guideline for transfer issued by the Panchayats and Rural Development Directorate. It is to be understood that this guideline was issued by the Directorate of another Department for its employees and does not necessarily compel the Department of Micro, Small and Medium Enterprises to accept it.
- v. 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.
- vi. The State Authority, as the employer, while exercising the power of transfer is not dependent upon the consent of the employee. Hon'ble 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 have in several cases discouraged the Tribunals from interfering in such matters.

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vii. What is important for the Tribunal is to see whether such order was exercised by the respondent authority according to Rules or not. In this instant case, the Director, Micro, Small and Medium Enterprises had passed the transfer order in exercise of his legitimate powers. It cannot be said that the Director passed such transfer order against the Rules or with any malafide intention. The Director is the competent authority to pass such transfer orders relating to the Industrial Development Officers under his Directorate. The Tribunal cannot agree with the contention of the applicant that such transfer order was arbitrary and bad in law. Neither in the submissions of the learned counsels nor in the statements made in the application, the Tribunal could be satisfied that such transfer order was with ill-intention and to punish the applicant.

With the above observations, the Tribunal feels that it is of utmost importance to cite a relevant judgement of Hon'ble Supreme Court reported in (2004) 11 SCC 402 : State of U.P. and Others –Vs.-Gobardhan Lal :-

*“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*

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*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 ordinarily be made with an order of transfer. ....”*

Citing the above judgement and relying on the observations above, the Tribunal has come to this conclusion that the prayer of the applicant is devoid of any merit. Therefore, this application is disposed of without passing any orders.

SAYEED AHMED BABA  
Officiating Chairperson & Member (A)

S.M.