

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

Hon'ble Justice Soumitra Pal, Hon'ble Chairman.
& Hon'ble Mr. P. Ramesh Kumar, Administrative Member.

Case No. OA 1081 of 2015.

SAMRAJNY KONAR– VS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>19 21.2.2019.</p>	<p>For the Applicant : Mrs. S. Konar, in person.</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. B.P. Roy, Mr. D. Koley, Advocates.</p> <p>Mrs. S. Konar, the applicant, appearing in person, files the vokatnama containing the “No Objection” of Mr. S.N. Ray, learned advocate, who was appearing on her behalf.</p> <p>In this application the applicant has challenged the order of transfer dated 21st July, 2015 transferring her from Sankrail Development Block in the district of Howrah to Singur Development Block in the district of Hooghly. The applicant submits that she has been subjected to harassment by officials and the impugned order of transfer is the result of such harassment and is thus malafide. As she was given lien, she joined as Assistant Commercial Tax Officer. Since the lien has ended, she may be directed to be reverted to the post she occupied at the Sankrail Development Block.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondent submits that</p>	

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	<p>the transfer is just and proper and as the lien has ended, she is to join at Singur Development Block. Moreover, it is evident from records that she has accepted the order of transfer.</p> <p style="text-align: center;">Heard Mrs. Konar appearing in person and Mr. Banerjee, learned advocate.</p> <p>It is an established proposition of law that transfer is part of one's service career. In the absence of statutory rules barring transfer, the order of transfer has to be accepted. It is a settled position of law that administrative guidelines cannot be relied on regarding transfer. In this regard, it is appropriate to refer to the judgement passed in the State of U.P. –Vs- Gobardhan Lal (2004) 11 SCC 402, the relevant portion of which is as under :-</p> <p style="text-align: center;"><i>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 in the absence of any specific</i></p>	

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	<p><i>indication to the contra, in the law governing or conditions 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 for any or every type of grievance sought to be made. 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 and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. 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, unless, as noticed supra, shown to be</i></p>	

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	<p><i>vitiated by mala fides or is made in violation of any statutory provision.</i></p> <p><i>8. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the courts or tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that courts or tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer....”.</i></p> <p>Since no statutory rule has been shown to bar transfer, therefore, in view of the proposition of law laid down in State of U.P. –Vs- Gobardhan Lal (supra), the order of transfer under challenge is not interfered with. The application is dismissed. However, we make it clear</p>	

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Skg.	<p>since the applicant has filed complaints before the law enforcing authorities and an application has been filed before the West Bengal Commission for Women, the said authorities are at liberty to deal with the complaint and application uninfluenced by the observations made in this order.</p> <p style="text-align: center;">As prayed for by the applicant, the salary of the applicant, if due, shall be paid after adjusting leave in accordance with law.</p> <p>(P. Ramesh Kumar) Member(A).</p> <p style="text-align: right;">(Soumitra Pal) Chairman.</p>	