

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 302 of 2015.

DR. MONIRUL HAQUE – VS- THE STATE OF W.B. & 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>17 3.10.2018.</p>	<p>For the Applicant : Mr. R. Banerjee, Advocate.</p> <p>For the State Respondent : Mr. S. Ghosh, Advocate.</p> <p>In this application, the applicant, employed as Medical Officer (Orthopaedic) Rampurhat Health District, has challenged the notification dated 30th January, 2015 issued by the Joint Secretary to the Government of West Bengal transferring him to Gangarampur Sub Divisional Hospital, Dakshin Dinajpur. It appears that the applicant while moving the application on 19th March, 2015 had challenged the release order dated 14th March, 2015. According to the applicant since there was an untoward incident on 14th October, 2014, the transfer order was issued. According to him the transfer order is consequent to the disciplinary proceedings arising out of the show cause dated 14th October, 2014. According to the applicant, as evident from pages 24,25 and 26 of the application, he is repentant for the unfortunate incident.</p> <p>It appears that the matter came up for hearing on 8th April, 2015 when interim order was declined on the</p>	

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	<p>ground that the release order and not the transfer order was under challenge and the release order arises out of transfer order. Thereafter pursuant to the leave granted , the petitioner had filed supplementary affidavit praying for the following reliefs :-</p> <p style="text-align: center;"><i>“(ii).....An interim order directing the respondent no. 2,7,8 and 9 not to give effect of transfer order dated 30.1.2015 vide Notification No. H/MA/383/HPT/32-M-155-14 issued by Respondent Nos. 2;</i></p> <p style="text-align: center;"><i>(iii) An order or direction for setting aside the impugned notification No. H/MA-383/HPT/32-M-155/14 issued by Respondent No. 2 and release order vide Memo No. 786/R.H.D.H. dated 14.3.2015 issued by Superintendent Rural Health District Hospital, Rampurhat.....”</i></p> <p>We find that in the supplementary affidavit no ground has been taken challenging the order of transfer. It is submitted by Mr. Rajendra Banerjee, learned advocate for the applicant, that as the order of transfer is punitive in nature and not a routine transfer and is at variance with the memorandum dated 9th</p>	

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	<p>November, 2011 , the order of transfer is not sustainable and hence the order of transfer as well as the release order may be set aside and quashed.</p> <p>Mr. S. Ghosh, learned advocate appearing on behalf of the respondent referring to the order of transfer dated 30th January, 2015, appearing at page 27 of the application submits that the transfer order is in no way connected with the untoward incident. Further, after transfer order was issued, interim order prayed for was declined . Submission is that the order of transfer is not at all connected with the show cause notice.</p> <p>Heard Mr. Banerjee, learned advocate for the applicant and Mr. Ghosh , learned advocate for the state respondent. It appears from the transfer order 30th January, 2015 that the applicant was transferred from Rampurhat Health District to Gangarampur Sub Divisional Hospital, Dakshin Dinajpur.</p> <p>In our view, the memorandum dated 9th November, 2011 issued by the Health Department, Government of West Bengal, is a guideline regarding transfer and has no statutory force. It requires to be noted that transfer is an incident of service. An order directing transfer should not be normally interfered with</p>	

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Skg.	<p>unless it is shown that it is malafide or is in violation of any statutory provision or it is issued by an authority having no authority to transfer. The instant case is not covered by any of the stipulations. Unless it is proved that it is issued with an ulterior motive, the same should not be interfered with. Further no valid ground has been made out in the supplementary affidavit challenging the order of transfer. Hence, the application is without merit and is dismissed.</p> <p>(P. Ramesh Kumar) Member (A)</p> <p>(Soumitra Pal) Chairman.</p>	