

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

Hon'ble Justice Soumitra Pal, Hon'ble Chairman &  
Hon'ble Dr. Subesh Kumar Das, Administrative Member.

CASE NO. OA 437 of 2020.

AMOD PRASAD –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>3 24.12.2020.</p>	<p>For the Applicant : Mr. B.K. Halder, Mr. I. Halder, Advocates.</p> <p>For the State respondent : Mr. S. Ghosh, Advocate.</p> <p>For the Principal Accountant General (A &amp; E) W.B. : Mr. B. Mitra, Departmental representative.</p> <p>Let affidavit of service filed today be kept on record.</p> <p>This application, affirmed on 17<sup>th</sup> November, 2020, has been filed by Amod Prasad, a Medical Officer in the District Hospital, Nadia, challenging the order of transfer dated 3<sup>rd</sup> November, 2020 transferring him as Medical Officer to Mekhliganj SDH, Coochbehar, on several grounds. It is submitted by Mr. B. Halder, learned advocate for the applicant, that as the applicant was a covid patient and now is suffering from gout and is under treatment at SSKM Hospital, the order of transfer be set aside and quashed.</p> <p>Mr. S. Ghosh, learned advocate for the State respondents, referring to the application, particularly paragraph (viii) and prayer "a" thereof, submits that the</p>	

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	<p>applicant admittedly was a covid Patient and now is suffering from gout and therefore, the order of transfer be not interfered with. Moreover, it is submitted that as transfer is a part of one's service career, no order be passed on the application.</p> <p style="text-align: center;">Heard learned advocates for the parties.</p> <p>It is evident from paragraph 6 (viii) that the applicant ".....was infected with covid 19 and after discharge he is still suffering from acute flare of gout in post covid...". However, in the prayer it has been stated that he was a covid patient and has not fully recovered from the said disease. We find from the petition that he has been released from the District Hospital, Nadia. Since admittedly that the applicant was infected with covid-19 and after recovering was discharged, no order can be passed on the application. It requires to be mentioned that the Supreme Court in State of U.P and Others – Vs- Gobardhan Lal (2004) 11 SCC 402, particularly in paragraphs 7 and 8 thereof, has laid down the law that an order of transfer, unless it is the outcome of a mala fide exercise of power or violative of any statutory provision or passed by an authority not competent to do so, cannot</p>	

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Skg.	<p>be interfered with. In the instant case the applicant has not alleged that the order of transfer was the outcome of a mala fide exercise of power or violative of any statutory provision or passed by an authority not competent to do so. Therefore, no order is passed on the application. The application is disposed of.</p> <p>Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	