

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal (Chairman)****& The Hon'ble Dr.Subesh Kumar Das (Administrative Member)****Case No. OA – 540 OF 2015****DR. FIROZ HOSSEN Vs. THE STATE OF WEST BENGAL**

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 style="text-align: center;"><u>10</u> 20.11.18</p>	<p>For the Applicant : Mrs.S.Mitra Advocate</p> <p>For the Respondent : Mr.B.P.Roy Advocate</p> <p>In this application, the applicant has sought for several reliefs, the relevant portion of which are as under :-</p> <p><i>“(a) An order directing the respondents, their agents, subordinates and successors to rescind, cancel and/or withdraw the purported decision communicated by the respondent concerned under memo dated 20.05.2015 forthwith.</i></p> <p><i>(b) An order directing the respondents, their agents, subordinates and successors to pass an order of voluntary retirement the applicant and release and disburse the all service benefits forthwith;</i></p> <p><i>(c) An order directing the respondents, their agents, subordinates and successors to produce all records and proceedings so that conscionable justice may be administered by granting the relief for hereinabove” .</i></p> <p>It is evident from the order dated 9th October, 2018 passed in this matter that the applicant had given</p>	

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	<p>up his prayer for voluntary retirement, that is prayer 10 (b), and accordingly, the submission for adjudicating the issue of voluntary retirement was not accepted and was refused. Mrs.S.Mitra, learned advocate for the applicant submits that the only issue which remains to be adjudicated is the order dated 20th May, 2015 transferring the applicant from Kolkata to Darjeeling being annexure-'E' to this application. On instruction, it is submitted that as the order of transfer is an order punishment in disguise, his client is not inclined to join at the transferred post at Darjeeling.</p> <p>Heard Mrs.Mitra and also Mr.B.P.Roy, learned advocate for the respondent. It has been held by the Supreme Court in State of U.P. v. Gobardhan Lal (2004)11 SCC 402 that <i>"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 indication to the contra, in the law governing or conditions of service. Unless the order of transfer</i></p>	

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BLR	<p><i>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".</i></p> <p>Therefore, challenge to the order of transfer has to be specific. In this application challenge to the order of transfer is vague. Hence, the challenge to the order of transfer fails. The application is dismissed.</p> <p style="text-align: center;">(S.K.DAS) MEMBER(A)</p> <p style="text-align: center;">(SOUMITRA PAL) CHAIRMAN</p>	