

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 804 of 2018.

SRI KANAI LAL DAS –Versus- 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>3 7.3.2019.</p>	<p>For the Applicants : None.</p> <p>For the State Respondent : None.</p> <p>The matter had appeared on 31st January, 2019 when even on second call none had appeared on behalf of the applicant. The matter was directed to appear today under the heading “Admission Hearing”.</p> <p>Pursuant to the said direction, today the matter has appeared under the heading “Admission Hearing”. Even on second call none appears on behalf of the applicant. In this application, it appears the applicant has challenged the order contained in the memo dated 6th July, 2018 transferring him from Khejuri-I Block, Purba Medinipur to the office of Assistant Director of Agriculture(Administration), Kharagpur Sub Division, Paschim Medinipur and the release order dated 17th July, 2018 on various grounds and certain reliefs have been prayed which are as under :-</p> <p><i>“a)This is to inform that on and from 17.07.2018, I have not get any Justice from the Respondent Authority to resume my duty as Upper Division Clerk or Head Clerk to the Khejuri Block-I, Block-II, Nandakumar or any other</i></p>	

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	<p><i>Kolkata Zone. At present, I am spending my days as an unemployed and getting no stands on my legs and as such it is difficult for me to maintain myself and my family also.</i></p> <p><i>b) As such I have filed a writ application being W.P. No. 13461(W) of 2018 before the Hon'ble High Court, Calcutta to restrain the Respondent Authority regarding their illegal transfer order dated 06.07.2018 and Final Release Order dated 17.07.2018, I most humbly pray before your magnanimity to allow me to join my service with promotion and restrain my illegal transfer order from the Hon'ble Court.</i></p> <p><i>c) In view of the above, you are requested to restrain my illegal transfer order from Contai Sub Division to Kharagpur Sub Division with is about 250 Kms far away from my residence and being a severe neuro and cardiac patient. I am unable to join my work place which is very harmful to my health and if the respondent authority want to transfer me to any other Division, then kindly transfer me with the promotion of Upper Division Clerk/Head Clerk to the Khejuri Block-I, Block-II, Nandakumar or any other Kolkata Zone".</i></p> <p><i>In view of rule 16(1) of the West Bengal</i></p>	

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	<p>Administrative Tribunal (Procedure) Rules, 1994 the matter is taken up for adjudication.</p> <p>Perused the application particularly the grounds in support of the relief. We find no ground has been made out justifying intervention in the matter directing transfer of the applicant. In this regard it is appropriate to refer to the judgement in the State of U.P. –Vs- Gobardhan Lal : (2004) 11 SCC 402 wherein while allowing the appeal filed by the State of Uttar Pradesh, the Supreme Court held, inter alia, as under:-</p> <p><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 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</i></p>	

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	<p><i>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 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</i></p>	

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Skg.	<p><i>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>In view of the law laid down by the Supreme Court, no order is passed on this application. The application is dismissed.</p> <p>(P. Ramesh Kumar) Member(A).</p> <p>(Soumitra Pal) Chairman.</p>	