

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

The Hon'ble Justice Soumitra Pal (Chairman)

& The Hon'ble P. Ramesh Kumar (Administrative Member)

Case No. OA- 884 OF 2019**SRI SWAPAN KUMAR MONDAL 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 style="text-align: center;"><u>04</u> 13.02.2020</p>	<p>For the Applicant : Mr.S.K.Mondal Advocate</p> <p>Affidavit of service filed today be kept on record. Despite service of notice none appears on behalf of the State respondents. In this application, Swapan Kumar Mondal, the applicant, working in the M.T.(Lab) in the Department of Health and Family Welfare, has challenged the order dated 12th July, 2019 passed by the Director of Health Service, Department of Health and Family Welfare, Government of West Bengal which was passed pursuant to the order dated 14th February, 2019 in OA-47 of 2019 filed by the applicant. The relevant portion of the order under challenge is as under:</p> <p style="text-align: center;"><i>“And whereas after careful examination of the documents and on verification of the admissibility of the prayer of the applicant, it was found that The Memorandum of Guidelines For Posting And Transfer Of All Group B C & D employees</i></p>	

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	<p><i>issued by the Department Of Health & Family Welfare (NO. HF/MA/326/HAD/12M-55/2001 DTD-28/02/2002) clearly enunciate that each employee shall be liable for transfer as a routine after five years service in a particular institution/stations {clause 1(i)}. The applicant Shri Swapan Mondal in his written document submitted at the time of personal hearing, expressed his dissatisfaction that in his entire service life every time he has been transferred unjustifiably, maliciously;</i></p> <p><i>And whereas It is also clear that each time he had been transferred, in order to circumvent the same, he came up with either mutual transfer or filed representation for further transfer. It is an established norm that transfer is an integral part of government service which cannot be disobeyed. Being a government employee it is nonsensical to call the order of the transfer unjustified or an act of “physical and emotional torment”. At present the applicant has been transferred to JOYPUR</i></p>	

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	<p><i>B.P.H.C. which is only 15 kilometers distance from his permanent place of Residence. According to the memorandum clause 1(v), if both spouse are government employees, efforts should be made to keep them in same places as far as practicable or in places where they may serve without living separately. Thus, when a person is transferred only 15 kilometers away from his permanent place of residence, it cannot be said to be irrational, unjustified and violation of the aforementioned rule. It further revealed that his wife Smt. Kalo Mondal, is working as health assistant (female) posted at the office of the ACMOH BISHNUPUR. Surprisingly, at present there is no such post of A.N.M. existing in C.M.O.H. Office.</i></p> <p><i>Now therefore, after careful consideration of the facts & circumstances and on examination of the instant case, it is ordered, that the application of Shri Swapan Kumar Mondal is hereby rejected as it is not unjustifiable. He has to discharge duties</i></p>	

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	<p><i>assigned to him in the same post (M.T.LAB) at JOYPUR B.P.H.C. until further order. The wife of the applicant Smt. Kalo Mondal is at liberty to apply for transfer. The authority shall consider the matter as far as possible.</i></p> <p><i>The case is disposed of with the aforesaid order.</i></p> <p>It is submitted by Mr.S.K.Mondal, learned advocate for the applicant that since after the impugned order was passed his wife has been transferred to Bishnupur, appropriate order may be passed for transferring the applicant, who is at present posted at Joypur, to Bishnupur.</p> <p>Heard learned advocate for the applicant.</p> <p>It is an admitted position that transfer is a part of one's service career. In the instant case, the applicant has been transferred to Joypur B.P.H.C. which is only 15 kilometers from his permanent place of residence. According to him is it is causing hardship. We find the issue has been considered and order in detail has been passed which is under challenge.</p>	

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BLR	<p>Since the applicant has been transferred to a place which is 15 km from his place of residence, we are of the view that the order does not require to be interfered with. Hence, the application is dismissed. However, we deprecate the use of a word in the ultimate page of the order by the Director of Health Services which is uncalled for and he should be careful, in the use of words in orders passed.</p> <p>(P. RAMESH KUMAR) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	