ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-
   The Hon'ble Justice Ranjit Kumar Bag
   & The Hon'ble Dr.Subesh Kumar Das (Administrative Member)

Case No. **OA – 886 OF 2018**
DR SANJOY BHATTACHARYA   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
<u>**01**</u> **05.11.18**	For the Applicant : Mr.P.Patwari Learned Advocate For the Respondent : Mr.G.P.Banerjee Learned Advocate The applicant has prayed for setting aside order of transfer dated October 29, 2018 issued by the Special Secretary to the Government of West Bengal, Department of Health & Family Welfare, MA (MES) Branch, whereby the applicant was transferred from the post of Assistant Professor, Department of General Medicine, Medical College, Kolkata to the post of Assistant Professor, Department of General Medicine, Rampurhat Medical College & Hospital in the district of Birbhum. Learned counsel representing the applicant submits that the order of transfer of the applicant is mala fide in nature on the grounds that the respondents did not comply with the previous order of transfer of the applicant dated May 20, 2014 and that the respondents did not release the benefit of service of the applicant on the basis of the reasoned order passed in compliance	

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Vs.

THE STATE OF WEST BENGAL & ORS.

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	with the direction given by the Tribunal on January 21, 2015 in OA-613 of 2014. He further submits that the order of transfer is branded as mala fide as the applicant will not be in a position to pursue the legal remedy for non-implementation of the reasoned order passed by the Principal Secretary to the Government of West Bengal, Department of Health & Family Welfare in pursuance of the order passed by the Tribunal in OA-613 of 2014 due to the present transfer order. We have heard Mr.G.P.Banerjee, learned counsel representing the State respondents who has opposed the prayer of the applicant. It is relevant to point out that the applicant has not yet moved the Tribunal for non-implementation of reasoned order passed by the Principal Secretary to the Government of West Bengal, Department of Health & Family Welfare in pursuance of order dated January 21, 2015 passed by the Tribunal in OA-613 of 2014. Accordingly, we are unable to accept the contention made on behalf of the applicant that the applicant will not be in a position to pursue the legal remedy for non-implementation of the said reasoned order passed by the	

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	Principal Secretary to the Government of West Bengal, the Department of Health & Family Welfare, particularly when the legal remedy can be pursued by the applicant sitting in Rampurhat. With regard to the contention of the applicant that the respondents have not complied with the previous order of transfer of the applicant, we find that the applicant challenged the previous order of transfer before the Tribunal and as such the respondents cannot be made liable for non-implementation of the said order of transfer. We do not find any mala fide in the order of transfer of the applicant from Kolkata to Rampurhat particularly when there is no reduction of salary or allowance of the applicant by virtue of the said transfer. The applicant must join his now place of posting within the period of joining time applicable to him under the provisions of West Bengal Service Rules, Part-I. With the above observation, the application stands disposed of.	
BLR/SCN	**(S.K.DAS)** **MEMBER(A)** **(R.K.BAG)** **MEMBER (J)**	