

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

The Hon'ble Justice Soumitra Pal, Hon'ble Chairman
& The Hon'ble P. Ramesh Kumar, Administrative Member.

Case No –OA-685 of 2019.

Partha Pratim Naskar. –Vs- The State of West Bengal & Others.

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>2</u> 19.09.2019.</p>	<p>For the Applicant : Mr. G. K. Das, Advocate.</p> <p>For the Respondents : Mrs. S. Agarwal, Advocate.</p> <p style="text-align: center;">Affidavit of service filed today be kept on record.</p> <p>In this application, the applicant, who is an Upper Division Clerk in the office of the Diamond Harbour Medical College and Hospital, has challenged the order of transfer dated 28th August, 2019 transferring him to Sarisha Block Primary Health Centre, South 24-Parganas. It is submitted by Mr. G. K. Das, learned advocate appearing on behalf of the applicant that since in his application for transfer dated 14th July, 2016 prayer was made to transfer him any one of the three places of his choice, appropriate order may be passed.</p> <p>Mrs. S. Agarwal, learned advocate appearing on behalf of the State respondents submits that the transfer order is in accordance with law. Submission is after transfer order was issued on 28th August, 2019, release order has been issued on 29th August, 2019. Moreover, the distance from Diamond Harbour to Sarisha is approximately thirty kilometres.</p> <p style="text-align: center;">Heard learned advocates for the parties.</p>	

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	<p>Since we find that the applicant has not been able to demonstrate that the order of transfer was passed in violation of law, the order of transfer cannot be interfered with. Moreover, the Supreme Court in State of U. P. and Others-Vs-Gobardhan Lal (2004) 11 SCC 402 had held 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,</i></p>	

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	<p><i>an order of transfer cannot likely be interfered 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 /servoant 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</i></p>	

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	<p><i>guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as notices 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 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</i></p>	

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Sourav.	<p><i>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>Since the applicant could not demonstrate that the order of transfer is in violation of law or statutory rule and in view of the law laid down in State of U. P. - Vs-Gobardhan Lal (Supra), no order can be passed on the application. The application is dismissed.</p> <p>(P. RAMESH KUMAR) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	