

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

The Hon'ble Justice Soumitra Pal (Chairman)  
& The Hon'ble Mr. P. Ramesh Kumar (Administrative Member)

Case No – RA – 5 OF 2018 (OA 743 OF 2018)

**THAKURDAS TARAFDER 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>3</p> <hr/> <p>04.04.2019</p>	<p>For the Applicant : Mr. U. Roy, Mr. S. Nandy, Advocate</p> <p>For the Respondents: Mr. G.P. Banerjee, Advocate</p> <p>This review application, being RA 05 of 2018, has been filed with the following prayers :</p> <p style="text-align: center;">“In view of the aforesaid circumstances it is humbly prayed that Your Honour may graciously be pleased to recall the order dated 26.09.2018 passed in O.A. No. 743 of 2018 and further hear out the application on the issues raised and involved in the said application and to pass such other or further order / orders as Your honour may deem fit and proper.”</p> <p>It appears that the applicant had moved the Tribunal challenging the order of transfer dated 30<sup>th</sup> October, 2017 and the release order dated 31<sup>st</sup> October,</p>	

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	<p>2017 in OA 1054 of 2017. Being aggrieved by the order passed by the Tribunal the applicant moved before the High Court by filing a writ petition, being W.P.S.T. No. 22 of 2018 which was dismissed on 7<sup>th</sup> May, 2018. Thereafter, the applicant, after getting certain information under the Right to Information Act, 2005 had filed a fresh application before the Tribunal, being O.A. 743 of 2018, praying for certain reliefs, the relevant portion of which is as under :</p> <p style="padding-left: 40px;">“(a) An order declaring that the said Transfer Order dated 30.10.2017 &amp; Release Order dated 31.10.2017, is not maintainable in the eye of law and is bad and be set aside;</p> <p style="padding-left: 40px;">(b) An order thereby directing the respondent authorities not to act in furtherance to the purported Transfer Order dated 30.10.2017 &amp; Release Order dated 31.10.2017;</p> <p style="padding-left: 40px;">(c) An order thereby directing the respondent authorities not to place the petitioner under leave and or any type of Absence from the date of his representation and further not to deduct the salary of the petitioner and to hold his service as a continued service without any break whatsoever and to</p>	

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	<p>consider him as on duty and in service along with service benefits;</p> <p>(d) An order directing the respondent authorities to immediately revert back the applicant to Baruipur fire Station from Kakdwip Fire Station in the same post i.e. Fire Operator along with its service benefits without any delay whatsoever;”</p> <p>The application, being O.A. 743 of 2018 was disposed of on 26<sup>th</sup> September, 2018 by passing an order, the relevant portion of which is as under:</p> <p>“In this application, the applicant, a Fire Operator under the West Bengal Fire &amp; Emergency Services and at present posted at Baruipur has challenged the order of transfer dated 30<sup>th</sup> October, 2017 transferring from Baruipur to Kakdwip and subsequent release order dated 31<sup>st</sup> October, 2017.</p> <p>At the very outset, it is submitted by Mrs. S. Agarwal on instruction that though the transfer order has been challenged, her client has joined the transferred post at Kakdwip on 26<sup>th</sup> March, 2018. Therefore, she does not press for the said relief.</p>	

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	<p>However, it is submitted that as the transfer order from Baruipur to Kakdwip is causing hardship to the applicant, representation dated 8<sup>th</sup> August, 2018 has been filed before the Director General, West Bengal Fire &amp; Emergency Services, Kolkata and the divisional Fire Officer / Deputy Director, South 24 parganas Division, West Bengal Fire &amp; Emergency Services, Kolkata, the respondent Nos.2 and 3 respectively. Prayer is direction may be issued upon the respondent no.2 to consider the representation.</p> <p>Having heard Mrs. S. Agarwal and considering the facts and circumstances of this case, this Original application is disposed of by directing the Director General, West Bengal Fire &amp; Emergency Services, Kolkata, the respondent No.2 to dispose of the representation dated 8<sup>th</sup> August, 2018, being annexure A-5 to the Original application, by passing a reasoned order to be communicated to the parties within 8 weeks from the date of presentation of copy of this order after giving an opportunity of hearing and after verifying the records.”</p>	

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	<p>Mr. U. Ray, learned advocate appearing on behalf of the applicant, relying on the review application, submits that though he is not pressing the prayer challenging the transfer order dated 30<sup>th</sup> October, 2017 and the release order dated 31<sup>st</sup> October, 2017, however, he is challenging the action of the respondents in not allowing him to do his job and not releasing his salary since September, 2018. Though similarly situated persons are continuing in the place in their office for several years, his client has been singled out and being transferred.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the respondents submits that since the issue of transfer has already been settled by the High Court by judgement dated 7<sup>th</sup> May, 2018 passed in W.P.S.T. 22 of 2018 (Thakurdas Tarafder vs. The State of West Bengal &amp; Ors.) and as the Tribunal, subsequently in O.A. 743 of 2018, after hearing the learned advocate for the applicant, has passed order, the order need not be interfered with in review as no new ground has been made out challenging the order.</p> <p>Heard learned advocates for the parties. Since the issue of transfer though raised is not agitated on behalf of the applicant, no order be passed on the issue of transfer.</p>	

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SCN	<p>So far as the submission regarding non-payment of salary, non-allotment of work and other issues are concerned as the applicant has stated in paragraph 7 of the review application that “the matter was considered and heard by the Learned Tribunal, but the Learned Advocate appearing on behalf of the applicant could not place the case properly and did not make the Tribunal aware of the true facts and circumstances of the case”, we are of the view that it cannot be a ground for review of the order, dated 26<sup>th</sup> September, 2018 passed in O.A. 743 of 2018. Therefore, the review application is dismissed.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	