

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. - OA 182 OF 2025

DR. SUBARNA GOSWAMI - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and

Date of order

02
20.05.2025

For the Applicant : Mr. Sourav Bhattacharjee,
Learned counsel.

For the State Respondents : Mr. Goutam Pathak Banerjee,
Mr. Sankha Ghosh,
Learned counsels.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside/quashing the impugned Order of Transfer issued by the Senior Special Secretary to the Government of West Bengal, Department of Health & Family Welfare, Health Services (Medical Administrative) Branch vide Notification No. HF/O/HS(MA)/363/HPT/32M-86-19/Pt-II Dated, Kolkata the 19th March, 2025 and the 'Release Order' dt. 24.03.2025 and further more to retransfer him to the original place of posting at Purba Bardhaman. The Department of Health and Family Welfare issued Memo. No. 363 dated 19.03.2025 transferring the applicant, Dr. Subarna Goswami from the post of Deputy CMOH-II, Purba Bardhaman to the post of Superintendent, Darjeeling TB Hospital, Darjeeling. On 24.03.2025, a release order came into effect and as indicated from the submissions, the applicant already joined the new place of posting in Darjeeling. Appearing on behalf of the applicant, Mr. S. Bhattacharjee argues with the following points:

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In terms of Notification No. 1621 dated 20.08.2004, the post of Deputy CMOH belongs to Group-A, the applicant was holding the post of Deputy CMOH-II, Bardhaman. The same Notification also indicates that the post of Superintendent of General Hospital located in the District Head Quarters belongs to Group-B. Therefore, the transfer order was not inconsonance with this Notification, for the reason that the applicant holding the Group-A post was demoted to a post which comes under Group-B. Mr. Bhattacharjee also draws attention to the guidelines relating to transfer issued by the Department vide Memo. 3431 dated 09.11.2011 and submits that as per 4(iii) preference should be given to local Medical Officers, same Notification also emphasises that individual considerations while making transfer orders should take into account a collocation of spouse. Dr. Goswami, the applicant's spouse is working as an Head Mistress in Kolkata. By such transfer to Darjeeling, the fact that his spouse lives and works in Kolkata was also not considered. Further submission is that the applicant had already completed seven years of service holding the post in the districts of North Bengal. The districts he has already served comes under Zone-A in terms of Notification dated 09.11.2011. Having served for seven long years in Category-A areas, the applicant has been transferred again to Darjeeling district which comes under Category-A.

Mr. G. P. Banerjee and Mr. S. Ghosh, learned counsels present a copy of Memo. 376 dated 20.03.2025 issued by the Department of Health and Family Welfare and submits that the designation of the applicant in his new posting has been modified in the rank of DADHS. Therefore, it is not correct now to say that the applicant has been transferred to and demoted to lower post by holding the post of Darjeeling TB Hospital as its DADHS and the applicant's post has been

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retained in Group-A. Learned counsels also point out that the transfers are discretion of the administrative head and transfers are made in the larger public interest, therefore, the Tribunal has a limited role in interfering such matters. The transfer policy in Memo. 3431 dated 09.11.2011 referred to by the applicant side is the proved guideline to be followed by the Department.

Having heard the submissions of the learned counsels and after perusal of the documents in this application, the Tribunal does not agree that the applicant's post has been downgraded by posting him as Superintendent and later rectified as DADHS, Darjeeling TB Hospital. The Memo. 3431 dated 09.11.2011 is only a guideline relating to transfer policy, it cannot be accepted that such guideline is to be strictly adhered to while making the transfer order of employees of the department. The respondent authorities certainly rely on these guidelines but administrative exigencies are also taken into consideration. The Tribunal has been informed by the learned counsel for the State that, in the meanwhile, the applicant has already complied with the transfer order and joined the new place of posting at TB Hospital, Darjeeling. The Tribunal is also reminded of several judgements of Hon'ble Supreme Court matters relating to transfer. The Hon'ble Court in (2004) 11 SCC 402 has discouraged to interfere in routine transfer matters by making following statements :-

"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.

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8. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the courts or tribunals."

In this case, although the applicant is aggrieved by his transfer order but no malafide intention has been suggested on the part of the respondent authorities. Therefore, the Tribunal does not find it appropriate to interfere in this transfer matter. The respondent authorities are very much within their right to transfer their employees from one place to another in the larger interest of public health.

Therefore, finding no merit in this application, it is disposed of without passing any orders.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

S.M.