

**HIGH COURT OF TRIPURA  
AGARTALA**

WP(C) No.783 of 2023

**Sri Shyamal Chakraborty**

S/O late Sunil Chakraborty resident of- A.D Nagar,  
Road No.-9, near Sanghasri Club, Surjya Para,  
P.O & P.S- A.D Nagar,  
District- West Tripura Pin-799003

....Petitioner(s)

Versus

**1. The State of Tripura**

Represented by the Secretary, Department of Home (Jail),  
Government of Tripura, New Capital Complex,  
Civil Secretariat, P.O- Kunjaban, P.S- New Capital Complex,  
District- West Tripura, Pin-799006

**2. The Inspector General of Prisons,**

Government of Tripura, Prisons Directorate, Dhaleswar,  
P.O- Dhaleswar, P.S- East Agartala,  
District- West Tripura, Pin-799007.

**3. The Superintendent, Sonamura Sub-Jail,**

(SDM, Sonamura), P.O- Sonamura,  
District- Sepahijala, Pin-799131.

....Respondent(s)

---

|                              |   |                                     |
|------------------------------|---|-------------------------------------|
| For Petitioner(s)            | : | Mr. Ratan Datta, Adocate            |
| For respondent(s)            | : | Mr. Kohinoor N. Bhattacharyya, G.A. |
| Date of hearing &            |   |                                     |
| Delivery of Judgment & Order | : | 06.02.2024                          |
| Whether fit for reporting    | : | No                                  |

---

**HON'BLE MR. JUSTICE ARINDAM LODH**

**JUDGMENT & ORDER (ORAL)**

By way of filing the present writ petition, the petitioner has challenged the impugned transfer order dated 05.12.2023 issued by the Inspector General of Prisons, Tripura whereby and whereunder he has been transferred from Sonamura Sub-Jail to Gandachhera Sub-Jail (*Annexure-19*, page-66 to the writ petition).

2. I have heard Mr. Ratan Datta, learned counsel appearing for the petitioner and Mr. Kohinoor N. Bhattacharyya, learned G.A. appearing for the respondents-State.

3. Mr. Datta, learned counsel for the petitioner has agitated four grounds to challenge the said impugned order of transfer. These are:- (i)

The petitioner has been frequently transferred, (ii) The transfer is aimed to accommodate one Sri Tapan Shil, (iii) His present health conditions, (iv) Rules framed for regulating transfer of jail employees.

4. In order to justify frequent transfer, the petitioner has stated in his writ petition that by an order dated 20.06.2018, the petitioner had been transferred from Kendriya Sansodhanagar, Bishalgarh, Tripura to Longtharai Valley Sub-Jail, Dhalai District, Tripura wherein he served for 2 years 3 months. Thereafter, by an order dated 06.10.2020, the petitioner had been again transferred from Longtharai Valley Sub-Jail to Udaipur District Jail. Thereafter, under order dated 04.10.2021, the petitioner had been transferred from Udaipur District Jail to Kendriya Sansodhanagar, Bishalgarh, Tripura. Again, vide order dated 10.01.2023, the petitioner had been transferred from Kendriya Sansodhanagar, Bishalgarh to Sonamura Sub-Jail. While he had been discharging his duties as Pharmacist at Sonamura Sub-Jail, the petitioner had been again transferred to Gandachherra Sub-Jail vide impugned order dated 05.12.2023.

5. According to learned counsel for the petitioner, the aforesaid transfer orders were so frequent that itself suggests arbitrariness on the part of the respondents-State, particularly, IG Prisons, the respondent no.2 herein.

*Secondly*, the IG Prisons has transferred the petitioner from Sonamura Sub-Jail to Gandachherra Sub-Jail without any rhyme or reason and only to accommodate one Sri Tapan Shil.

*Thirdly*, on the basis of the certificates relating to the treatment of the petitioner, Mr. Datta, learned counsel has urged this court not to transfer the petitioner from Sonamura Sub-Jail to Gandachherra Sub-Jail as his life may be at stake.

*Fourthly*, Mr. Datta, learned counsel for the petitioner has relied upon the relevant Rules governing the transfer of the jail employees of the State of Tripura.

6. I have considered the said Rules. Rule 690 of Tripura Sansodhanagar Rules, 2021 (for short, Rules of 2021) stipulates as follows:-

*“ 1. The minimum tenure of non-gazetted and gazetted staff, at one station, shall be five years and three years, respectively.*

*2. While deciding on transfers, factors like:*

*(a) Needs of the department and the institution,*

*(b) Suitability of the incumbent to the post to which he is being transferred, and*

*(c) Reasonable needs of the government servant such as availability of educational facilities for his children, domestic difficulties of a special nature, etc shall be considered.”*

7. Opposing the submissions as advanced by learned counsel for the petitioner and to defend the impugned transfer order, learned G.A has urged this court that the impugned transfer order has been made only keeping in view the public interest. Admittedly, at present there are four Pharmacists serving under the Jail Department, Government of Tripura who have to serve the prisoners of 13 jails throughout the State, and that necessitate the transfer of these four pharmacists at certain intervals looking into the interest of the prisoners in these Sub-Jails.

8. Drawing my attention to the statements made in the writ petition, learned G.A has contended that if we look into the matter since 2012, then it becomes crystal clear that the petitioner has been transferred on four occasions on his own request at the place of his own choice and it is also found that the wife of the petitioner had once made a representation on health ground of the petitioner to the concerned Minister of the Jail Department, who personally took interest of it at his behest the petitioner had been transferred to a place of his choice. The statements in this regard are found at para-10 of the writ petition.

9. Learned G.A has strongly denied and refuted the submissions of Mr. Datta, learned counsel for the petitioner that the petitioner has been transferred to Sonamura Sub-Jail to Gandachherra Sub-Jail to accommodate one Sri Tapan Shil. Learned G.A has submitted that Sri Tapan Shil has applied for VRS, which the Government had denied due to acute shortage of pharmacists in the Jail Department, Government of Tripura.

10. I have considered the rival submissions of learned counsel appearing for the parties.

11. It is settled proposition of law that transfer is incidental to service. An employee has no Fundamental Right or for that matter, a vested right to claim a transfer or posting at a place of his/her choice. It is absolutely within the domain and prerogative of the transferring authorities and the court will not sit in appeal over their decisions.

12. I have considered the judgment referred to by Mr. Datta, learned counsel for the petitioner relating to the case of ***B. Varadha Rao Vs. State of Karnataka and Ors.*** reported in (1986) 4 SCC 131, para-6 of which is reproduced here-in-below:- [SSC p.135 para 6]

*“6. One cannot but deprecate that frequent, unscheduled and unreasonable transfers can uproot a family, cause irreparable harm to a government servant and drive him to desperation. It disrupts the education of his children and leads to numerous other complications and problems and results in hardship and demoralization. It therefore follows that the policy of transfer should be reasonable and fair and should apply to everybody equally. But, at the same time, it cannot be forgotten that so far as superior or more responsible posts are concerned, continued posting at one station or in one department of the government is not conducive to good administration. It creates vested interest and therefore we find that even from the British times the general policy has been to restrict the period of posting for a definite period. We wish to add that the position of class III and class IV employees stand on a different footing. We trust that the government will keep these considerations in view while making an order of transfer.”*

13. In the instant case, the petitioner stated that he has college going children who have been pursuing higher education in Agartala and the petitioner has been suffering from blood sugar and frozen shoulder pain and once he has been suggested by the Doctor to undergo surgery.

14. I have taken note of the observations rendered at para 6 of the case of **B. Varadha Rao (supra)** where it was also observed that transfer in a transferable job is inevitable and Government, as a benevolent employer should look into the problems and hardships of its employees. There is no quarrel in this regard. In the instant case, it transpires that the respondent-State had transferred the petitioner on three occasions at his own requests and for once at the request of his wife. So, it cannot be said that the Government has not considered the hardship and problems faced by the petitioner. In the instant case, it is apparent that the Jail Department is run by only four Pharmacists at present. All the Sub-Jails under the respondents need Pharmacists and the Government has to manage all the prisoners in those Sub-Jails with the active aid and assistance of the said four Pharmacists including the petitioner. In this situation, in the opinion of this Court, the transfer of the petitioner is *bona fide*.

15. True it is, individual interest be considered, but keeping in view the administrative exigencies, the employees under the Government also need to respond to the situation, *vis-à-vis* the compelling circumstances the employer faces. When the transfer order is made *bona fide*, personal inconvenience should not come in the way of smooth administrative functions and greater public interest. From the records, it is evident that Sonamura Sub-Jail is situated at a distance of only 4-5 kms. from the Sub-Divisional Hospital, Sonamura. So, a prisoner can easily be taken to hospital if the circumstances so require. It is also evident that the petitioner was posted at Sonamura Sub-Jail and went on leave for more than seven months which has been submitted by learned G.A on instructions and during this period the prisoners of Sonamura Sub-Jail did not complain of any inconvenience due to his absence. It is also understood that in an emergent situation it will not be inconvenient for a doctor to visit and attend a prisoner in the Sonamura Sub-Jail.

16. In addition, Rule 690(2)(a) of the Rules of 2021 clearly provides that in case of departmental and institutional needs, jail employees can be transferred.

17. For the reasons stated and observed here-in-above, I am of the considered view that the impugned transfer order does not suffer from any arbitrariness, and transfer of the petitioner has been made in the interest of public as would be apparent from the impugned order itself. The petitioner has failed to make out a case of malice towards him. As such, the said impugned order does not call for any interference. Hence, the writ petition is dismissed.

18. However, the respondents may dispose of the representation of the petitioner which was submitted on 07.12.2023, if it is not disposed of till today.

Interim order granted by this court stands vacated.

**JUDGE**

SANJAY GHOSH

Digitally signed by  
SANJAY GHOSH  
Date: 2024.02.09  
17:17:47 +05'30'

*Rohit*

