

11 **25.03.
2022**
Ct. No. 04

Ab

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.

WP.ST 4 of 2022

The State of West Bengal and others
Vs.
Kanailal Dey.

Mr. Anirban Ray,
Mr. Avishek Prasad.

... for the petitioners.

Mr. Rajesh Kumar Shah.

... for the respondent.

The instant writ petition is taken out against an interim order dated 24th September 2021 passed by the West Bengal Administrative Tribunal in OA 674 of 2021.

The challenge was made to an order of transfer from the post of District Inspector of Schools to Additional District Inspector of Schools. Prima facie, the tribunal found that under the Service Jurisprudence the transfer cannot be made from a higher post to a lower post. Since such point appears to have been involved and requires an extensive determination upon hearing the respective parties and on disclosure of the materials in the form of pleadings, the interim order was passed.

There is no difficulty that if the matters require to be determined upon a full-fledged hearing and permitting the parties to exchange pleadings, the Court must protect the interest pending such final adjudication. Since the point has been projected, which the tribunal feels that it requires an extensive hearing, we do not find any infirmity in the interim order.

Furthermore, the impugned order was passed on

24th September 2021 wherein the interim order was operative till 21st January 2022. The certified copy of the said order was obtained on 7th October 2021, which would appear from the reverse page of the impugned order, but the instant writ petition was affirmed on 13th January 2022. If the petitioners have waited for such a long time and approached the Court practically at the verge of expiration of the initial period, we do not think that there is any urgency inviting this Court to pass an interim order.

Since the writ petition is against the interim order where the prima facie findings have been recorded, which are tentative in nature, we do not find any justification in interfering with the said order, which has been passed on a sound logic and the law.

Writ petition is, thus, dismissed.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)