

**WPA 25116 of 2023**  
**Dipta Sen**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Ayan Banerjee,  
Mr. Soumo Chaudhury,  
Mr. Suman Banerjee

...for the Petitioner

Mr. Arjun Roy Mukherjee,  
Mr. Subhendu Sengupta

...for the State

The facts involved in this case would be apparent from the interim order passed in this matter on October 18, 2023. The relevant part of the said order is quote below:

“The petitioner is a part-time lecturer on a fixed contractual remuneration at Calcutta Technical School, Kolkata. The order impugned dated October 12, 2023, transfers him to Central Footwear Training Centre, Budge Budge, South 24 Parganas.

It has been submitted by the learned advocate appearing for the petitioner that by the order impugned, the petitioner has been transferred to a post, about eighty kilometers away from his residence.

Learned advocate appearing for the State on the other hand submits that the order impugned cannot be termed as an order of transfer. This is only a working arrangement whereby the petitioner has been relocated to a different institute. He submits that the petitioner’s salary also will be disbursed from Calcutta Technical School, Kolkata, where the petitioner is presently working.

It could not be demonstrated before this Court by the State that the service of petitioner is transferable as a condition of his service or there is any transfer rule applicable to the petitioner.

Therefore, I am of the prima facie view that by the order impugned, the petitioner cannot be transferred to a different institute in the guise of a “working arrangement.”

Accordingly, there shall be a stay of the impugned order of transfer dated October 12, 2023 and release order dated October 13, 2023 issued by the Principal-in-Charge, Calcutta Technical School for a period of three months from date.

The State shall file affidavit in opposition within three weeks after the upcoming Puja Vacation; reply

thereto, if any, may be filed by the petitioner within one-week thereafter.

List this matter one-month after the upcoming Puja Vacation under the heading “Hearing”.

To support the impugned order of transfer, Mr. Arjun Roy Mukherjee, learned advocate appearing for the State has placed reliance upon annexure-R/1 to the affidavit in opposition filed by the State.

It has been submitted by Mr. Roy Mukherjee on an earlier occasion also, the petitioner was transferred to a different college. The said transfer was accepted by him without raising any objection. He further submits that as a matter of practice, even part-time teachers are transferred to different colleges to meet the academic exigencies.

He, however, does not dispute the fact that there is no transfer policy or transfer rules applicable to the petitioner.

Mr. Ayan Banerjee, learned advocate appearing for the petitioner submits that the earlier engagement of the petitioner was not on transfer. The petitioner, at that relevant point of time, was reappointed since he was engaged on a temporary basis.

He submits that subsequently, the petitioner has been allowed to continue with his service till the age of 60 years by a notification dated February 26, 2021 issued by the State. Therefore, the impugned order dated October 12, 2023 cannot be equated with the earlier order of re-

appointment of the petitioner.

I find substance in the stance taken by the petitioner. It is an admitted position that the petitioner has been transferred de hors the service rules. Accordingly, the order dated October 12, 2023 is set aside.

However, I make it clear that that it will be open for the State to formulate a transfer policy for part-time teachers.

Accordingly, **WPA 25116 of 2023** is allowed.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.

**(Kausik Chanda, J.)**