

13.02.2025
Court No.13
Supplementary List
Item No.1
AP

WPST 12 of 2025

Sukanta Mukherjee
Vs.
The State of West Bengal and Ors.

Mr. Ekramul Bari
Mr. Sk. Imtiaz Uddin

... For the Petitioner.

Mr. Tapan Kumar Mukherjee, Senior Advocate
Ms. Sangeeta Roy

...For the State.

1. The instant writ petition has been filed against a judgement and order dated 10th January, 2025 passed by the West Bengal Administrative Tribunal. By the impugned order, a prayer for interference with an order of transfer of the writ petitioner has been declined by the Tribunal. Challenging the said order, the instant writ petition has been filed.

2. It appears that the writ petitioner was serving as a UDC at Dr. A.P.J. Abdul Kalam Government College, New Town, Kolkata. He has served in the said post for about 9 years now. It is admitted position that the post held by the writ petitioner is transferable. The writ petitioner is holding service under the State Government.

3. The writ petitioner has not alleged any mala fides behind the transfer. In fact, it appears from the records that as many as 51 employees, similarly situated as that of the writ petitioner, have been transferred by the said

order dated 5th December, 2024. The order itself records that the transfer has been occasioned in the interest of public service and administrative exigencies.

4. Mr. Ekramul Bari, learned counsel appearing for the writ petitioner would rely upon a decision of the Supreme Court in the case of ***Ms. X Vs. Registrar General, High Court of Madhya Pradesh and Anr.*** reported in ***(2022) 14 SCC 187*** particularly paragraphs 42 and 71 thereof.

5. It appears from the facts of the said case that the appellant therein, who was a judicial officer in the state of Madhya Pradesh, was transferred in the middle of her term and had specifically alleged mala fides. The transfer was effected therein for irrelevant and extraneous consideration and on the basis of an unverified complaint against the said Judicial Officer. It is in that context that the Hon'ble Supreme Court was pleased to expound and observe that the principles of legitimate expectation would operate in favour of an employee, who has alleged mala fides against an administrative order. Such legitimate expectation according to the Hon'ble Supreme Court was a fair consideration of a representation made by the employee.

6. In the instant case it is seen that since after order of transfer was issued, the only ground on which the writ petitioner has sought re-consideration of the order of transfer was the ailment of his child.

7. It appears to this Court that the child of the writ petitioner is about 7 years old and the ailment has been continuing since birth. The child may indeed under treatment. That by itself cannot override the administrative exigency of the State. The decision of the Hon'ble Supreme Court in the case of ***Ms. X Vs. Registrar General, High Court of Madhya Pradesh and Anr. (supra)*** would have no manner of application in the facts of the case.

8. Mr. Tapan Kumar Mukherjee, learned Senior Counsel representing the State has placed a recent decision of the Hon'ble Supreme Court dated 13th March, 2024 in the case of ***Sri Pubi Lombi Vs. The State of Arunachal Pradesh & Ors.*** being Civil Appeal No.4129 of 2024. After reiterating the principles laid down with regard to transfer of employees under the State it has been clearly held that the only ground for interference with an order of transfer are mala fides, violation of statutory provisions and the allegation of transfer being detrimental to the employee who was holding a transferable post.

9. In this context paragraph 10 of the said decision is set out hereinbelow:-

“In view of the foregoing enunciation of law by judicial decisions of this Court, it is clear that in absence of (i) pleadings regarding malafide, (ii) non-joining the person against whom allegation are made, (iii) violation of any statutory provision (iv) the allegation of the transfer being detrimental to the employee who is holding a transferrable

post, judicial interference is not warranted. In the sequel of the said settled norms, the scope of judicial review is not permissible by the Courts in exercising of the jurisdiction under Article 226 of the Constitution of India.”

10. In the back drop of the aforesaid, this Court does not find any infirmity with the impugned order passed by the Administrative Tribunal or the order of the transfer of the writ petitioner passed by the State. The writ petitioner has not been singled out in the process of transfer. As many as 51 employees including the writ petitioner, who are similarly situated, have been transferred on administrative exigencies. The same, therefore, does not call for any interference.

11. Hence, WPST 12 of 2025 fails and hereby dismissed.

12. In view of the dismissal of the main writ petition, connected pending applications, if any, is also disposed of.

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

14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)