

17th July, 2025
(D/L No.118)
Ct. No.4
(SKB)

W.P.S.T.124 of 2025

Dr. Naren Sarkar
Versus
The State of West Bengal and others

Mr. Jayanta Narayan Chatterjee, Sr. Adv.,
Mr. Supreem Naskar,
Ms. Jayashree Patra,
Ms. Pritha Sinha
... for the petitioner.

Mr. Soumen Chatterjee,
Mr. Alok Banerjee
... for the State.

1. Heard the learned counsel for the petitioner.
2. The petitioner is a doctor and was transferred in the month of 26th July, 2022 to the Jalpaiguri Government Medical College as an Assistant Professor. He joined his duties at the new place of posting on 29th July, 2022. From the next date i.e. 30th July, 2022 he did not attend his duties. These facts are not in dispute
3. It is the case of the applicant/petitioner before the Central Administrative Tribunal (in short 'Tribunal') that in view of the guidelines for transfer and posting issued from time to time, including the memorandum dated 8th March, 2022, there is a provision, according to which, if

both husband and wife belong to the West Bengal Medical Education Service cadre, as in the case of the petitioner, then posting in the same zone may be considered for them subject to availability of vacancy. The applicant has also raised other difficulties in joining of his duties at Jalpaiguri, namely, being the education of his two minor children and an aged parent. He submits that since the guidelines provide for posting of the husband and wife in the same zone, the authorities are required to consider the claim of the petitioner for such posting.

4. We have considered the submissions of the learned counsel representing the petitioner. We find that this is not a case where any transfer order is impugned. The order by which he was transferred to Jalpaiguri Medical College on 26.07.2022 has been complied with. However, for the last about three years, the petitioner has abstained from his duties there and is claiming regularization of his absence subject to the leave available to his credit, which is evident from a representation filed by him on 12.08.2024 before the Principal Secretary, Department of Health and Family Welfare.

5. Whether sufficient leave exists to his credit or not is an issue which we do not wish to comment upon, since the relief which is espoused in favour of the applicant is the issuance of direction to consider his transfer to a post so that he may not be faced with the hardship and circumstances indicated hereinabove.
6. The petitioner had prayed for quashing of an order dated 14.08.2024 passed by the authorities on a representation filed by the petitioner seeking transfer to a station so as to avoid the above noted hardships/ inconvenience faced by him. He has made also certain other ancillary prayers. The Tribunal has disposed of the original application being guided by decision of the Apex Court in the case of ***State of U.P. and others vs. Gobardhan Lal*** reported in ***(2004) 11 SCC 402***. The Tribunal has thus declined the relief to the petitioner.
7. Upon consideration of the Apex Court decision, we find that in the report relied upon by the Tribunal the Apex Court has held that even an administrative guideline for regulating transfer and policies in this regard may afford an opportunity to an officer or servant to approach the higher authorities to redress a grievance, but cannot have the consequence of depriving or

denying the competent authority to transfer a particular employee to any place in public interest and in exigency of service. The only rider which is recognized is that the transfer should not be in violation of a statutory provision, actuated by *mala fide* and does not adversely affect the official status of the transferred employee. The Apex Court has clearly held in this report that a challenge to a transfer order should normally be eschewed and should not be countenanced by the Courts or Tribunals as if they are sitting in appeal over such orders to reassess or look into the niceties and administrative needs of the situation. We further take notice of the otherwise settled legal position that transfer is an incident inherent to an appointment to a post having transfer liability. Under such circumstance, it is not open to an employee to claim either to stay at a particular place or a choice posting as a matter of right.

8. We, therefore, find no reason to interfere with the decision of the Tribunal. The learned counsel for the applicant/petitioner submits that the petitioner would be availing of his remedies otherwise, i.e. before the authorities for seeking a transfer citing his hardship. Without expressing

any opinion on such submission and reserving his liberty to take any appropriate steps in accordance with law, the writ petition is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)