

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

04.07.2025

Ct. no.2
Daily List Sl. No. 4
Moumita

WPA 14480 OF 2025

**Pankaj Kumar Jha
Vs.
Union of India & Ors.**

**Mr. Soumya Majumder, Sr. Adv.
Mr. Samrat Dey Paul**

.... For the Writ Petitioner

**Mr. Sarosij Dasgupta
Ms. Afreen Begum**

....For the Respondent nos. 2 to 7

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Soumya Majumder, learned senior counsel with Mr. Samrat Dey Paul, learned counsel appears for the petitioner.

Mr. Sarosij Dasgupta, learned counsel with Ms. Afreen Begum, learned counsel appears for the respondents.

The sole grievance of the petitioner is that the petitioner being employee of the respondent no. 2 has been transferred from Kolkata to Bengaluru. The petitioner submits that while issuing the transfer order for the petitioner, the employer has not followed the transfer policy prevailing on the issue, hence the transfer is bad.

Referring to two representations dated **June 6, 2025 annexure p-14 at page 74** and dated **June 19,**

2025 (email) annexure p-15 at 76 to the writ petition, Mr. Soumya Majumder, learned senior counsel submits that these representations have not yet been considered in accordance with law.

Mr. Sarosij Dasgupta, learned counsel appearing for the respondent submits that the transfer has been effected in strict compliance of the transfer policy and following the due process of law. There is no mala fide or arbitrariness involved while transferring the petitioner from Kolkata to Bengaluru. The petitioner is an assistant manager and belongs to a **Sensitive Post**. The administrative requirement and exigency needs the petitioner to be posted at Bengaluru, according to the employer.

After considering the rival contentions of the parties and upon perusal of the materials on record, this court first reiterates the settled principles that transfer is an incidence to the service. If there is any administrative exigency the employer is always at its discretion empowered to transfer employee from one place to other, to meet such administrative exigency.

Be that as it may, in view of the above, the respondent no. 4 upon issuing a **clear 72 working hours** notice upon the petitioner both physically and on email of the petitioner wherefrom the representation **at page 76** was sent to the respondent no. 3 and after granting an opportunity of hearing to the petition shall

decide the said two representations **at page 74 and 76** to the writ petition, referred to above, by passing a reasoned order positively within **ten working days** from the communication of this order. The reasoned order shall also be communicated to the petitioner immediately upon the same being passed through email of the petitioner.

It is made clear that this court has not gone into the merits of the rival submissions of the parties and they shall be at liberty to urge whatever points they wish to urge by relying upon whatever records, documents and policies they wish to rely upon before the respondent no. 3 and but the same shall not travel beyond the scope of the said two representations **at page 74 and 76** to the writ petition.

In the event, the reasoned decision goes in favour of the petitioner, then the necessary and consequential effect should be given immediately.

In the event, the reasoned order goes against the petitioner then the operation of the same shall be stayed for next **four working days** from the date of the communication of the said reasoned order.

In the event, the petitioner fails to comply with the reasoned order, if it goes against him after the said **four working days** from the date of communication of the said reasoned order as directed above, the employer

respondent no. 2 shall be free and at liberty to take steps against the petitioner in accordance with law.

It is made clear that this order shall not create any right or equity in favour of the petitioner, if the petitioner does not succeed to his claim for resisting the transfer before the respondent no. 3 strictly in accordance with law.

It is also made clear that all communication in between the parties through their respective emails shall be treated as valid communication.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 14480 of 2025** stands ***disposed of***, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)