

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

WP.ST/160/2024

With

IA NO: CAN/1/2025, CAN/2/2025, CAN/4/2025

KALYAN PRAMANIK

VS

THE STATE OF WEST BENGAL AND ORS.

For the Petitioner : Mr. Sabyasachi Chatterjee, Advocate
Mr. Badrul Karim, Advocate
Mr. Kiron Sk., Advocate

For the Respondent: Mr. Amitesh Banerjee, Sr. Adv.
Nos. 1 and 2 Ms. Debdooti Dutta, Advocate

For the Bally : Mr. Jaydeep Kar, Sr. Adv.
Municipality Mr. Ayan Banerjee, Advocate
Ms. Debarsee Dhamali, Advocates
Ms. Riya Ghosh, Advocate

For the State : Mr. Arjun Roy Mukherjee, Advocate
Mr. Debangshu Dinda, Advocate

Heard & Judgement on: July 14, 2025

DEBANGSU BASAK, J.

1. The writ petition is directed against an order dated July 30, 2024 passed by the West Bengal Administrative Tribunal in OA 352 of 2024.

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2. Being aggrieved by an order of transfer, writ petitioner assailed the same before the Tribunal. Writ petitioner is an employee of the Finance department of the State of West Bengal and presently on deputation with Bally Municipality.
3. By the impugned order, learned Tribunal, directed that the Original Application be placed for hearing on January 7, 2025. Learned Tribunal did not grant any interim relief to the writ petitioner.
4. Being aggrieved by the refusal to grant interim relief writ petitioner filed the present writ petition.
5. In this writ petition, from time to time, co-ordinate Bench passed diverse orders.
6. In the writ petition by CAN 2 of 2025, Finance Department of the State of West Bengal seeks permission to repatriate the writ petitioner from his present posting to his parent department.
7. Learned advocate appearing for the writ petitioner submits that the writ petitioner is a whistle blower. No doubt, the writ petitioner was an employee of the Finance Department but he was sent on deputation to Bally Municipality. He refers to the demerger of two municipalities. He submits that the writ petitioner came across financial irregularities in the affairs of the demerged municipality. He raised various objections with regard thereto. He submits that,

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the writ petitioner refused to verify and sign on bills which he found to be inappropriate. Since, the writ petitioner was crusading against the mismanagement as also the corruption at the demerged municipality, the Finance Department came up with the present application for the purpose of rendering the transfer order and consequently the Original Application before the Tribunal, infructuous.

8. Learned advocate appearing for the writ petitioner submits that, the transfer order is under challenge before the learned Tribunal. According to him, the request of Finance Department as contained in CAN 2 of 2025 is tainted with mala fides. Application is for colateral purpose of attempting to render the writ petitioner remediless.
9. Learned advocate appearing for the writ petitioner submits that, a special audit was directed to be undertaken in respect of the affairs of the demerged municipality. Such audit is yet to be completed despite the statutory period of completion thereof being over. He submits that it is the anxiety of Bally Municipality to remove the writ petitioner from his present posting so that the special audit does not reflect the true and actual state of affairs of Bally municipality.
10. Learned advocate appearing for the writ petitioner submits that, the writ petitioner apprehends that disciplinary proceedings will be

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initiated as against the writ petitioner. Such disciplinary proceedings will be *mala fide* and colourable exercise of powers of the employer, since, the writ petitioner brought to the notice of the authorities and to the public at large of the financial misdeeds of Bally Municipality.

11. Learned advocate appearing for the writ petitioner relies upon **(2005) 8 SCC 394 [Union of India through Govt. of Pondicherry and Anr. Vs. V. Ramakrishnan & Ors.]** and submits in reference to paragraph 32 thereof that, the permission for repatriation sought for is mala fide. He submits that, repatriation is to put the writ petitioner into further difficulty by initiating a disciplinary proceeding against him. He submits that, permission of repatriation, if allowed, will result in a stigma so far as the writ petitioner is concerned.
12. Learned advocate appearing for the writ petitioner draws the attention of the Court to the various averments made in the application seeking permission for repatriation. He submits that, no ground for repatriation stands made out.
13. Learned advocate appearing for the writ petitioner submits that, the Administrator of Bally Municipality is against him. Baseless allegations are levelled against the writ petitioner in order to victimise him.

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14. Learned senior advocate appearing for the Finance Department refers to the application seeking permission for repatriation. He submits that, the writ petitioner is an employee of the Finance Department. Writ petitioner was sent on deputation to various posts including the last posting at the Bally Municipality. He submits that, it would be in the interest of a fair and proper investigation with regard to the alleged financial irregularity in Bally Municipality that the writ petitioner was repatriated to the parent cadre.
15. Learned senior advocate appearing for the Bally Municipality submits that, in the event, the Court is inclined to allow the application being CAN 2 of 2025, he need not advance any argument on the allegations and counter-allegations between the writ petitioner and Bally Municipality.
16. State is represented.
17. Writ petitioner approached the West Bengal Administrative Tribunal assailing an order of his transfer. In such original application, the impugned order dated July 30, 2024 was passed. By the impugned order, learned Tribunal did not grant any interim protection to the writ petitioner, as prayed for. Original application is yet to be disposed of finally and still pending before the learned Tribunal.

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18. From time to time, writ petitioner obtained various interim orders from the co-ordinate Bench. Transfer order was stayed till disposal of the writ petition before the High Court.
19. One of the basis for grant of interim order to the writ petitioner is recorded in the order dated August 7, 2024 of the co-ordinate Bench where, the possibility of the writ petitioner, and his willingness to be repatriated to the parent department is discussed.
20. Today, we are faced with the application in the pending writ petition, where, the parent department at which, the writ petitioner was engaged, seeks to repatriate the writ petitioner.
21. One of the issues before us is whether or not the permission for repatriation as sought for by the Finance Department should be granted, in the facts and circumstances of the present case.
22. **V. Ramakrishnan (supra)** considers the issues of appointment by deputation and reversion of the deputationist to the parent cadre. It considers the issue of malice in law. It would be appropriate to refer to paragraph 32 therein which is as follows :-

"32. Ordinarily, a deputatinoist has no legal right to continue in the post. A deputationist indisputably has no right to be absorbed in the post to which he is deputed. However, there is no bar thereto as well. It may be true that when deputation does not result in absorption in the service to which an officer is deputed, no recruitment in its true import and significance takes place as he is

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continued to be a member of the present service. When the tenure of deputation is specified, despite a deputationist not having an indefeasible right to hold the said post, ordinarily the term of deputation should not be curtailed except on such just ground as, for example, unsuitability or unsatisfactory performance. But, even where the tenure is not specified, an order of reversion can be questioned when the same is mala fide. An action taken in a post-haste manner also indicates malice (See Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia (2004) 2 SCC 65 para 25.”

23. In the facts of that case, the deputationist was on deputation to a post pending selection of a regular incumbent. Deputation was on the basis that, till such regular selection was made, deputationist will be entitled to remain at the deputed post.
24. Factual scenario obtaining in the present case is completely different. The deputation of the writ petitioner does not contain any such condition that, he will continue to hold the post at which he is deputed till a particular period of time or for any particular purpose or till the happening of any defined event.
25. Today, there are allegations and counter-allegations between the writ petitioner and the concerned municipality as to alleged financial misdeeds of the concerned Municipality. A special audit was directed to be undertaken. Special audit is yet to be completed. It is the allegation of the writ petitioner that the special audit was not completed deliberately and in violation of the statutory provisions thereof. These allegations may and should be considered at an appropriate proceeding. We need not enter into the arena of the alleged financial irregularities or the non-completion of the special audit report at this stage.

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26. As noted above, we are concerned with an application of the Finance Department seeking permission to allow the Finance Department to repatriate the writ petitioner from the present posting.
27. In our view, the ratio led down in **V. Ramakrishnan (supra)** is not attracted. Petitioner was not sent on deputation for a particular post or by a particular time or with any attendant covenant which prevents the parent employer to repatriate the writ petitioner.
28. The apprehension expressed by the writ petitioner with regard to disciplinary proceedings and the sufficiency of the special audit are misplaced at this stage. We need not enter into the realm of speculation with regard thereto. No disciplinary proceedings stand initiated against the writ petitioner today. Special audit is yet to be completed.
29. Apprehension of the writ petitioner is that, the repatriation will reflect as a stigma on his service career.
30. We clarify that in the event the writ petitioner is repatriated the same will be without any stigma so far as the writ petitioner is concerned.
31. In such circumstances, it would be appropriate to allow CAN 2 of 2025 and we allow the same.
32. Finance Department is at liberty to repatriate the writ petitioner to its parent cadre.
33. So far as the impugned writ petition is concerned and the other connected applications thereto, we find that, the writ petition is directed against an order passed by the learned Tribunal refusing to grant interim protection. The challenge in the original

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application is with regard to transfer order. In the event, the writ petitioner is repatriated by the Finance Department, the issue of transfer will not arise. In the event, he is not repatriated by the Finance Department then also, the writ petitioner may ventilate his grievance before the learned Tribunal where the original application is pending. Further interference of the writ Court is not called for, particularly in view of the permission being granted to the Finance Department, today.

34. All points raised by the writ petitioner as to the impugned order of transfer as well as the special audit report are kept open to be agitated before the Tribunal, in the event the writ petitioner is not repatriated by the Finance Department.
35. Writ petitioner should not be kept in a limbo as to status as an employee. Finance Department will, therefore, communicate its decision on repatriation to the writ petitioner within a fortnight from date.
36. WP.ST/160/2024 along with the connected applications are **disposed of** without any order as to costs.
37. At this stage, learned advocate appearing for the writ petitioner seeks that the learned tribunal may be requested to hear and dispose of the original application on merits. In difference to such

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wishes, the writ petitioner may pursue his original application before the Tribunal, in accordance with law.

(Debangsu Basak, J.)

38. I agree.

(Md. Shabbar Rashidi, J.)

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