

03. 24.09.2025
Court No.8
(Tanmoy)

MAT/1438/2025
IA NO: CAN/1/2025

MITHUN CHAKRABORTTY AND ORS.
VS
STATE OF WEST BENGAL AND ORS.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Shahan Shah
Mr. Md. Shahjahan
Mr. Sk. Abumusa
Mr. Umenur Khan

..for the appellants.

Mr. Santanu Kr. Mitra, Sr. Govt. Adv.
Mr. Subhabrata Das

..for the State.

1. Learned Counsel for the appellants and the State are represented through their respective learned Counsel.
2. Heard on admission and *interim* relief.
3. This intra-court appeal takes exception to the judgment of the learned Single Judge dated August 25, 2025, whereby WPA/14686/2025, filed by the appellants herein against their transfer order, was dismissed.
4. Learned Senior Counsel appearing for the appellants fairly submits that the appellants are contractual employees, as per their contract of service as well as the governing guidelines their

inter-district transfer is indeed a condition of service. However, the appellants are low paid employees and they have been transferred to far off districts. While transferring the appellants, no “Administrative exigency” is shown. The same was neither shown before the learned Single Judge, nor before this Court. For these twin reasons, the impugned order of transfer is bad in law.

5. Learned Counsel for the department submits that the transfer is admittedly a condition of service of the appellants. The appellants are signatories to the contract which is pregnant with the condition of inter-district transfer. Thus, there is no violation of condition of service of the appellants. The appellants have already joined at the transferred place. The appellant nos. 4 and 8, before the learned Single Judge, informed that they have joined at the transferred place and their grievance is now confined for getting some monetary benefits like House Rent Allowance (HRA) for which their representation is pending. In absence of any violation of service conditions, interference may be declined.

6. No other point is pressed by learned Counsel for the parties.

7. We have heard the parties at length.

8. It is trite law that transfer order can be interfered with in exercise of power under Article 226 of the Constitution of India on limited grounds. If transfer order violates any statutory provision (not policy guidelines), changes service condition of an employee to his detriment, passed by incompetent authority or proved to be *mala fide*, interference can be made.

9. Another view is possible, is not a ground for interference by the Writ Court. Writ Court cannot sit in appeal to decide the aspect of Administrative exigency. The employer is the best judge to decide the existence and aspect of “Administrative exigency”. In absence of alleging and establishing any *mala fide*, interference cannot be made.

10. We have carefully gone through the impugned judgment of the learned Single Judge. The learned Single Judge has taken into account the judgments of Hon’ble Supreme Court wherein aforesaid principles were laid down on which an order of transfer can be tested. We do not find any infirmity in the judgment of the learned Single Judge. In absence of any ingredients on which interference could have been made, interference was rightly declined. Thus, admission is declined.

11. The intra-court appeal along with the connected application fail and are dismissed. There will be no order as to costs.

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

(Sujoy Paul, J.)

(Smita Das De, J.)