

02.02.2026
Item No.32
Ct. No.01
RP

WPCT 29 of 2026
Dr. Sanghamitra Ghosh
VS
Union of India & ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. A.K. Datta
Mr. Swadesh Priya Ghosh
...For Petitioner
Mr. Rabi Prasad Mookerjee
Mr. Partha Sarathi Mondal
...For Respondent Nos.1 to 3, 5
Mr. Dhiraj Trivedi, DSGI, Sr. Adv.
Ms. Swapna Jha
...For Respondent No.4

PER, SUJOY PAUL, CJ.:

1. Parties are represented through their respective counsels.
2. Heard on admission.
3. This petition filed under Article 226/227 of the Constitution of India takes exception to the order dated 13.01.2026 passed by the Central Administrative Tribunal, Kolkata Bench, Kolkata in OA No.350/1301/2025.
4. The petitioner/applicant filed the said OA assailing the transfer/posting order dated 22nd August, 2025 whereby the petitioner CMO(NFSG) was transferred from FWC, CH(EC) Kolkata to FWC, 2 Wg AF Pune. The

Tribunal initially granted interim protection to the petitioner but ultimately by impugned order dismissed the petition.

5. Mr. Bhattacharya, learned senior advocate for the petitioner assailed the impugned transfer/posting order and rejection order of the Tribunal by raising two-fold submission.
6. Firstly, it is submitted that the normal age of superannuation of the petitioner was 62 years. She intended not to continue beyond 62 years if she is to be posted outside Kolkata. She expressed her willingness to not to continue by representation dated 3rd June, 2024 (Annexure P-7). The department passed the order dated 11.06.2024 and apprised that the applicant preferred the application for 'extension of posting tenure'. The department should have continued the petitioner at the present place of posting because she had only three years eight months left for attaining the age of 65 years.
7. Secondly, as per policy of the department, ordinarily employees/officers should not be

transferred/posted out when they have less than three years of service before their age of superannuation. Learned senior counsel submits that when transfer order dated 22nd August, 2025 was issued, although the petitioner had three years eight months of remaining service, by now the petitioner had less than three years to serve the department. In this backdrop, at least as of today, such policy guideline protects the petitioner. Picking up the petitioner before three years and eight months amounts to malice in law. The Tribunal erred in dismissing the original application.

8. Per contra, Mr. Trivedi, learned DSGI, senior advocate for the respondent no.4 and Mr. Mookerjee, learned advocate for the respondent nos.1 to 3 and 5 supported the impugned order. Mr. Trivedi by placing reliance on the order of Single Bench of Madhya Pradesh High Court passed in **WP 1206 of 2017 (Madan Kumar Athya vs. The State of Madhya Pradesh)** decided on

27.01.2017 (by one of us) and judgment of Supreme Court passed in the case of **Pubi Lombi vs. State of Arunachal Pradesh & Ors.** reported in **2024(12) SCC 292** urged that there is no ground on the strength of which the petition can be entertained.

9. We have heard the parties at length.
10. There are catena of judgements of Supreme Court including the recent judgement of **Pubi Lombi** (supra) wherein the Supreme Court made it crystal clear that transfer order can be interfered with if it violates any statutory provision (not policy guideline), changes service condition of an employee to his/her detriment, passed by incompetent authority and/or proved to be malafide. In the instant case, the petitioner has been transferred when she had three years eight months service to be rendered. The policy nowhere protects such employee, who had more than three years of service. Even otherwise, the policy is only a guideline and does not have any binding force. We are unable to persuade ourselves to

the line of argument that the petitioner was transferred to avoid the clause of policy, which provides some protection to employees when they have less than three years of service, amounts to malice in law.

11. The petitioner was admittedly holding a transferable post. Transfer is an incident of service. In the facts and circumstances of this case, we are unable to find any ingredient on which interference can be made. Thus, we find no reason to disturb the order of Tribunal. Admission is declined and the petition is dismissed.
12. Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

[SUJOY PAUL,CJ.]

[PARTHA SARATHI SEN, J.]