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NANDY

(PA)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA/12681/2026

DEBABRATA NANDY
VS
THE STATE OF WEST BENGAL & ORS.

Mr. Atreya Chakraborty, Advocate
Mr. Barun Chatterjee, Advocate

……for the Petitioner

Ms. Aparna Banerjee, learned AGP
Mr. Brijendra Pratap Singh, Advocate

……for the State

1. The matter was mentioned for extension of the interim order dated June 24, 2026, which was extended from time to time and is subsisting till November 15, 2026.
2. However, at the time of taking up this matter, Ms. Banerjee, learned AGP appearing for the State, submitted that there is some urgency in the matter and the same should be taken up at this stage for final disposal.
3. The matter has been taken up for final disposal with the consent of both parties.
4. The petitioner's grievance is that a transfer order of June 2022 has been given effect to by way of a release order dated June 1, 2026, that is, after the lapse of four years.
5. The petitioner was employed at the Burdwan Medical College since joining in 2004-05.
6. Currently, he is posted as a Professor in radio-diagnosis in the Bankura Sammilani Medical College.
7. By the transfer order dated June 28, 2022, the petitioner was transferred from Bankura to the Medical College in Kolkata.
8. However, for reasons hovering around administrative exigency, particulars whereof have not been

disclosed, the petitioner was not given a release order and thereby continued working in Bankura.

9. This release order was issued on June 1, 2026, on the basis whereof the transfer dated June 28, 2022 was sought to be effected. It was in these circumstances that the petitioner approached this Hon'ble Court by way of this writ petition. The petitioner's interests were protected by the interim order dated June 24, 2026, whereby the release order was kept in abeyance.
10. Mr. Chakraborty, learned Advocate appearing for the petitioner, submits that there is no reason as to why the release order was issued after a lapse of four years from issuance of the transfer order and indeed such transfer order after four years could not have been effected.
11. In fact, he has placed reliance on a Memorandum No. H/MA/MES/1891/1M-77/96 dated November 18, 1996, whereby Clause 12 specifies as under:

    "12. Any order of transfer shall have to be given effect to by all concerned, under local arrangement, within 1 month of the date of issue of the order of transfer, if the substitute does not join in the meantime."
12. In view of the aforesaid submissions, according to him, the transfer order has lapsed and cannot be given effect to at such a belated stage.
13. Ms. Banerjee, learned AGP appearing for the State, submits that the administrative exigency which existed on the date of issuance of the transfer order in 2022 is still subsisting and, therefore, the order can be given effect to.
14. She also submits that the release order had not been issued at the material time since the person joining in the place and stead of the petitioner at Bankura was not available to join, on account whereof there was an

insufficiency of staff, resulting in non-issuance of the release order.

15. Thus, presently, upon joining of the incumbent in the place and stead of the petitioner at Bankura, the said release order of June 1, 2026 has been issued to give effect to the transfer order dated June 28, 2022.
16. I have heard the learned Advocates for the parties and perused the documents and the decisions relied upon by them.
17. The issue is not whether the transfer order was *per se* good, bad, illegal or sustainable in law. The issue is whether the transfer order, which has not been challenged on merits, is sustainable to be given effect to after the lapse of almost four years by way of the release order of June 1, 2026.
18. The administrative exigency which existed on the date of issuance of the transfer order in June 2022 may or may not be subsisting as on date, i.e. on June 1, 2026, the day of issuance of the release order. There is no appraisal or reappraisal of the facts leading to a veritable conclusion that the administrative exigency that existed in 2022 is still subsisting in 2026.
19. Even without an administrative exigency, a transfer, being an incident of service, could have been made. However, a transfer order cannot be kept in subsistence for eternity to be executed as and when the executive feels or deems fit, specially, in the teeth of the memorandum of November 18, 1996, which specifies that any order of transfer shall be given effect to by all concerned under a local arrangement within one month of the date of issue of the order of transfer.
20. Clearly, this limit of one month has expired long back

in 2022 itself. Had there been a fresh order of transfer, the release order would have related to such fresh order. Clearly, there is no such fresh order of transfer to which the release order can be related. In fact, the release order unequivocally relates to the transfer order of June 28, 2022.

21. The order of transfer of 2022 has not only become stale and deadwood but has become incapable of being effected after such a long lapse of time. Bereft of the fact that the representations of the petitioner relating to his difficulties have not been considered by the authorities, so much is clear, that the transfer order of June 2022 has lapsed without any further steps being taken in aid of such order, either to implement or effect the transfer.
22. The decisions of the Hon'ble High Court at Madhya Pradesh and the Hon'ble High Court at Rajasthan are clear and unequivocal, and related to similarly placed release orders against an order of transfer which were made within a shorter span of time than the presently belated period of four years.
23. In view of the above discussion and finding, I have no hesitation in holding that the order of transfer dated June 28, 2022 has been given a complete go-by, by the authorities, and could not be the basis for issuance of a release order in June 2026.
24. In view of the afore-stated, the release order dated June 1, 2026 is set aside.
25. The transfer order of June 28, 2022 has lost all force and is not required to be dealt with.
26. I, however, make it clear that in the event the authorities are of the opinion that the petitioner should still be transferred, they will be at liberty to take all

necessary steps in accordance with law to effect such transfer of the petitioner.

27. With the afore-stated direction, the writ petition is partially allowed. No order as to costs.

28. Urgent Photostat Certified Copy of this order, be given to the parties, if applied for, on priority basis.

(Reetobroto Kumar Mitra, J.)