

W.P.S.T. 166 of 2025

Dr. Subarna Goswami
Vs.
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.,
Mr. Sudipta Dasgupta,
Mr. Baibhav Roy

...for the Petitioner

Mr. Jahar Lal De, Id. A.G.P.
Ms. Kakali Samajpaty,
Mr. Amrita Tewary

...for the State

1. The writ petitioner was the applicant before the West Bengal Administrative Tribunal ('Tribunal' for short) in O.A. No. 182 of 2025. Having failed to get any relief in respect of a challenge to a transfer order, the writ petition has been filed. The petitioner's O.A. was dismissed by an order dated 20.05.2025 by the Tribunal.
2. The petitioner was posted as a Deputy CMOH-II, Purba Bardhaman when a transfer order was served on him. The transfer order was issued by the Senior Special Secretary to the Government of West Bengal in the Department of Health & Family Welfare, Health Services (Medical Administrative) Branch and is dated 19.03.2025. By this order, the petitioner was transferred to a post of Superintendent, Darjeeling TB Hospital at Darjeeling. He was released from his current place

of posting by a release order issued five days after the transfer order, i.e. on 24.03.2025.

3. At the very outset, it is submitted by the learned advocate for the petitioner that subsequent to his release from the present posting, the petitioner has joined the transferred place of posting. He further submits that a ground urged before the Tribunal regarding the transfer order being on a lower post, is not pressed in view of the fact that the transferred place of posting was upgraded and petitioner's posting on the said post, therefore, was at par with his current rank and status.
4. The transfer order is assailed before this Court on two grounds. The first ground, urged on behalf of the writ petitioner, is that the transfer does not serve any public purpose or public interest. The petitioner was rendering valuable service at a premier medical institute, namely, the Bardhaman Medical College & Hospital, which is a super speciality hospital. His services now have been transferred to the TB Hospital in Darjeeling, which is practically a defunct organisation. There are hardly any doctors since almost all the doctors have been transferred from that place. The medical infrastructure at the transferred place of posting leaves a lot to be desired and there is hardly any patient coming to the hospital for treatment. Another ground urged by the learned

senior advocate for the petitioner is that the petitioner being General Secretary of an Association of Doctors, namely, the Joint Platform of Doctors, West Bengal was transferred since he was participating in the protest in connection with the R.G. Kar Medical College & Hospital incident.

5. It is submitted that the petitioner's transfer, therefore, is in violation of an order dated 22.08.2024 passed by the Hon'ble Apex Court in the *suo motu* Writ (CRL) No. 2 of 2024.
6. The learned advocate for the State on the other hand submits that the petitioner's allegations are unfounded. The transfer was effected in the exigency of administration of health services. The discretion to transfer an employee in exigency of service lies with the administrative authorities. The petitioner's transfer is in the normal and routine exercise of such discretion. It is the State's prerogative to utilise the services of the petitioner in larger public interest, at a remote centre in the hills. The allegation regarding the transfer being prejudicial to public interest, therefore, is not sustainable.
7. Insofar as the other submission regarding the transfer being in violation of order dated 22.08.2024 (*supra*) passed by the Hon'ble Apex Court is also unsustainable. In the said order, the Hon'ble Apex Court has clearly stated that the

State shall not take any precipitate action against those who are peacefully protesting against the incident which took place at R.G. Kar Medical College & Hospital. The petitioner has neither made any averment in the O.A. regarding his sitting in protest at R.G. Kar Medical College & Hospital; nor such allegation has been made in the representation filed by the petitioner requesting reconsideration of his transfer. The representation is dated 21.03.2025. The contemporaneous objection raised by the petitioner does not contain any such allegation and is being raised as an afterthought in the present proceedings to gain an undue advantage.

8. The learned State advocate has also relied upon two decisions of the Hon'ble Apex Court, first decision being ***Union of India & Ors. Vs. S.L. Abbas*** reported in ***(1993) 4 SCC 357***. The second, a more recent decision, was rendered in the case of ***Sri. Pubi Lombi Vs. the State of Arunachal Pradesh & Ors.*** in ***Civil Appeal No. 4129 of 2024***. The Judgement was delivered on 13.03.2024. Xerox copy of the Judgement has been handed over to the Court after due service upon the petitioner. The decision in the case of ***S.L. Abbas*** (*supra*) was considered in the case of ***Sri Pubi Lombi*** (*supra*).

9. We, therefore, consider it apposite to rely upon the decision of the Hon'ble Apex Court in the case of ***Sri Pubi Lombi*** (*supra*), paragraphs 12 and 13 of which are relevant, wherein the Hon'ble Apex Court took notice of absence of a plea of *mala fide* against the transferring authority and also that the transfer was not in violation of any statutory provision. The Hon'ble Apex Court, therefore, rejected a challenge to the transfer order.
10. The facts arising for consideration in the present case also does not disclose any specific allegation of *mala fide* against the transferring authority. The reliance sought to be placed on the order of the Hon'ble Apex Court in the case of *suo motu* Writ (CRL) No. 2 of 2024, is devoid of any substance since no such allegation was levelled either in the petitioner's representation dated 21.03.2025, which was contemporaneous to the transfer; or in the Original Application. The plea is clearly raised by way of an afterthought.
11. Insofar as the issue regarding public interest being not served, we reject such submission also. There is a hospital in Darjeeling where the petitioner has been sent to discharge his duties. The State is of the opinion that his expertise and experience is to be utilised there. The fact that there are few Doctors there and that few patients are availing services there, even if accepted as

correct, *ipso facto* cannot lead to a conclusion that the public interest would not be sub-served by posting the petitioner there.

12. We also consider it worth taking note of the fact that the petitioner was transferred to a hospital in the hills. The importance of health care services in the hills cannot be overlooked.
13. On consideration of the rival submissions, we are inclined to accept the submission advanced on behalf of the State.
14. We find no infirmity in the order dated 20.05.2025 passed by the Tribunal in O.A. No. 182 of 2025 rejecting the petitioner's claim.
15. The Writ Petition is dismissed.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)