Form No. J(2)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present :

The Hon'ble Justice Rishad Medora

WPA 31419 of 2026

Moumita Mahata Ors.
-Versus-
The State of West Bengal & Ors.

For the petitioners : Mr. Biswarup Nandy

For the State : Mr. Falguni Bandopadhyay. Ld. Sr.Govt. Adv.
Ms. Amrita Pandey.
Mr. Ghanshyam Pandey.
Ms. Ayushi Mishra.

Heard On: : 09.11.2026.

Judgment On: : 09.11.2026.

Rishad Medora, J.

1. Affidavit-of-service filed today is taken on record.
2. The petitioners have filed the present writ petition praying for, inter alia, a writ of mandamus directing the Director of Health Services, West Bengal to consider the case of the petitioners for their home district placement and they have assailed a reasoned order dated February 9, 2026 passed by the said Director of Health Services, West Bengal in this regard.

3. The petitioners are presently serving as Health Assistants (Female) in the Department of Health and Family Welfare, Government of West Bengal. The petitioners are essentially seeking transfer from their respective positions / posts to the districts of Bankura and Purulia, being their home districts.

4. The petitioners had earlier filed a writ petition before this Court praying for such transfer and by an order dated December 31, 2025, a Co-ordinate Bench of this Court had disposed of such writ petition by directing the Director of Health Services, West Bengal to consider the prayer of the petitioners. Such prayer was considered and ultimately, by a reasoned order dated February 9, 2026, such request for transfer was rejected.

5. The respondent no. 3 has rejected the prayer of the petitioners on the ground that the concerned authority of the West Bengal Nursing Services under the Department of Health and Family Welfare, Government of West Bengal is facing a real challenge to maintain overall balance of requirement of Health Assistant (Female) employees in different districts of West Bengal and the requests of the petitioners.

6. It is also recorded in the aforesaid order dated February 9, 2026 that the said Department has to consider public interest first and foremost at the time of preparation of posting orders. The impugned order also records that there is a clear imbalance between the number of vacant Sub-Centres and the availability of eligible Health Assistant (Female) staff belonging to the same districts. In view of the same, the said Department rejected the request of the petitioners by holding that he

had no other alternative but to persist with the existing order of the Director of Health Services, Government of West Bengal (Memo No. HNG/9T-6A-2015/116 dated January 29, 2024).

7. Learned advocate representing the petitioners has relied upon several orders passed in similar matters, copies whereof have been annexed to the present writ petition.

8. Learned advocate representing the State respondents has also relied on orders passed by this Court in similar matters.

9. I have considered the materials on record as well as the submissions made by the learned advocates representing the parties.

10. As has been held by this Court earlier, the provision of the aforesaid Circular/Memo dated January 29, 2024 relating to completion of three years of service by a Health Assistant (Female) before seeking transfer is directory in nature. Similarly, the provision of Circular/Memo dated July 31, 2026, bearing Memo No. HNG/9T-6A-2015/986, relating to completion of three years of service by a Health Assistant (Female) before seeking transfer is also directory in nature. The years of service prior to seeking transfer cannot be a disabling or disentitling factor.

11. The contention of the State that Sub-Centres cannot be left without any Health Assistant (Female) staff is also to be borne in mind by this Court before passing any order.

12. Accordingly, this writ petition is disposed of with the observation that as and when 'reliever/fresher' Health Assistant/s (Female) will be available, the prayers of the petitioners seeking transfer will be considered by the concerned respondent authorities irrespective of the

fact whether they have completed three years service or not. It will be open for the petitioners to make fresh applications seeking transfer.

13. The authorities will consider the relevant applications, as and when the same are made, strictly in accordance with law, and in particular, in conformity with the parameters set out in the aforesaid Circular/Memo dated January 29, 2024 and also the aforesaid Circular/Memo dated July 31, 2026 bearing Memo No. HNG/9T-6A-2015/986 without insisting on the satisfaction of any criteria which has already been construed as directory in nature.

14. Learned advocate representing the State has also fairly submitted that in terms of the existing orders of the Director of Health Services, Government of West Bengal, at the time of preparation of the transfer list, seniority in service of the candidates is given preference.

15. Since there is some doubt as to whether or not some of the petitioners will be able to apply for transfer through the existing online portal, in view of the fact that they may not have completed three years of service as on the date of making their applications, such petitioners will be at liberty to make their applications in offline mode, which shall be considered by the respondent authorities in accordance with law as directed hereinabove.

16. Since no affidavit has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

17. The writ petition stands disposed of with the aforesaid observations and directions.

18. However, there shall be no order as to costs.

19. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

20. All parties shall act on the basis of the server copy downloaded from the official website of this Court.

(Rishad Medora, J.)