

WPO/192/2026

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

DEBRAJ DATTA

-VERSUS-

THE STATE OF WEST BENGAL &
ORS.

BEFORE:

The Hon'ble JUSTICE REETOBROTO KUMAR MITRA

Date : August 21, 2026.

Appearance:

Ms. Nibedita Chakraborty, Adv.
Ms. Chandreyee Chakraborty, Adv.
...for the petitioner

Ms. Sushmita Saha Dutta, Adv.
Ms. Tanushree Ghosh, Adv.
...for the State.

Mr. Nayan Chand Bihani, Sr. Adv.
Mr. Abhishek Sikdar, Adv.
...for the respondent nos.2 to 5.

1. Supplementary affidavit filed in Court be retained with the records.
2. The petitioner is aggrieved by a transfer order of January 13, 2026 by which the petitioner has been transferred from one post to another of the West Bengal Small Industries Development Corporation Limited (hereinafter referred to as 'WBSIDCL').
3. The petitioner was engaged as a temporary worker and has been discharging his services as such from 2011. The petitioner has been transferred on several earlier occasions which he has accepted without any protest and/or demur. The petitioner has also joined the transferred post pursuant to the order of transfer of January 13, 2026.

4. Ms. Chakraborty, learned advocate appearing for the petitioner submits that the transfer of the petitioner is arbitrary, whimsical and mala fide as pleaded in paragraph 4 of the writ petition. On this ground she seeks the order of transfer to be rescinded and/or set aside.

5. Mr. Bihani, learned senior advocate appearing for the respondent authority submits that the petitioner has been transferred on earlier occasions, which has not been challenged and this transfer is also a routine transfer which does not entail any mala fides or arbitrariness. He further submits that a mere pleading of mala fide or arbitrariness unsubstantiated by relevant proof of the same ought not be accepted by the Court to interfere any order of transfer passed by an authority. He has also submitted that mere personal difficulties or disruption of a family set up cannot be a ground to rescind an order of transfer. He has placed reliance on the decision of the Hon'ble Supreme Court reported in **(1993) 1 SCC 148 (Rajendra Roy vs. Union of India & Anr.)**.

6. I have heard the learned counsel for the parties and considered the documents and decisions relied upon by them.

7. The age old principle is that transfer is not a vested right in an incumbent/employee. Transfer forms a part of the internal management of an authority, which should not be interfered with by the Court while exercising jurisdiction under Article 226 of the Constitution of India.

8. The Hon'ble Supreme Court of India has, over a period of time, laid down two parameters on the basis whereof any interference can be caused by the Courts. These two parameters are:

- a) If there is a breach of the established transfer policy of an organization, such a transfer can be challenged and the Courts

may interfere depending on the facts and circumstances of a particular case; and,

- b) If the transfer is proved to be mala fide or arbitrary as against a concerned employee.

9. These are the only two grounds on which a transfer order can be challenged by an incumbent and, indeed, can be interfered by the Court.

10. In the present case, it is not in dispute and, indeed, admitted that there is no prevalent transfer policy of the respondent-WBSIDCL. The transfers are part of the indoor management of an organization. In terms thereof, the said respondent WBSIDCL has effected transfer of several persons by the order dated January 13, 2026. There does not seem to be any mala fide on the face of it.

11. However, the petitioner has alleged such a mala fide as aforestated in paragraph 4 of the writ petition. This allegation of “mala fide” is completely uncorroborated and unsubstantiated either any evidence or any act of commission and/or omission by the respondent authorities. A mere allegation of malice, arbitrariness or even of a malice in law cannot be a ground to set aside an order of transfer which is otherwise not challenged. The petitioner has failed to establish that the transfer in so far as the same relates to the petitioner is in any manner mala fide or arbitrary. There is no pleading or allegation that the same is discriminatory in nature.

12. The Hon’ble Supreme Court in the case of Rajendra Roy (*supra*) has clearly held that in a transferable post, an order of transfer is the natural incident of service and personal difficulties cannot be construed as an impediment for transfer of an employee.

13. The personal difficulty of the petitioner herein cannot be taken into account as a ground of mala fide or arbitrariness. In fact, the petitioner has fortunately not stretched the point of arbitrariness and mala fide to such an extent.

14. The petitioner has grossly failed to establish that the order of transfer was made with any mala fide intent or motive or that the same has been passed in an arbitrary manner.

15. In view of the aforesaid finding, WPO/192/2026 fails and is accordingly dismissed.

16. There will, however, be no order as to costs.

17. Urgent certified Photostat copy of this order, if applied for, be supplied to the parties subject compliance of requisite formalities.

(REETOBROTO KUMAR MITRA, J.)