

Court No. - 36

Case :- WRIT - A No. - 18681 of 2023

Petitioner :- Smt. Prabha

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Mukesh Kumar Kushwaha, Mahima Maurya Kushwaha

Counsel for Respondent :- C.S.C., Archana Singh

Hon'ble Manjive Shukla, J.

1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for Respondent No.1 and Smt. Archana Singh, learned counsel appearing for Respondents No. 2 and 3.

2. Petitioner has filed this writ petition inter alia praying for the following relief:

"Issue a writ, order or direction in the nature of mandamus commanding the respondent Nos. 1 and 2 to consider the application of petitioner for transfer from District-Rampur to District-Ghaziabad expeditiously.

3. Learned counsel appearing for the petitioner has submitted that petitioner is working on the post of Assistant Teacher in a Primary School at District-Rampur. Petitioner's husband is the employee of Government of India and is presently working at District-Ghaziabad but is suffering with cancer.

4. Learned counsel appearing for the petitioner has argued that in the recent exercise of inter district transfers initiated pursuant to the Government order dated 2.6.2023, petitioner could not submit online application for her transfer from District-Rampur to District-Ghaziabad as in District-Ghaziabad zero vacancy was shown. It has further been argued that Rule 21 of the U.P. Basic Education (Teachers) Service Rule 1981 and Rule 8(2)(d) of U.P. Basic Education (Teachers) (Posting) Rules, 2008 categorically provide that if there are extraordinary circumstances with the teacher then his case for inter district transfer can be considered by the Secretary, U.P. Basic Education Board, Prayagraj.

5. Learned counsel appearing for the petitioner has vehemently argued that circumstances of the petitioner are extraordinary as her husband is working with the Government of India at District-Ghaziabad and is suffering with cancer, therefore, discretion vested in the Secretary, U.P. Basic Education Board, Prayagraj, under the aforesaid rules, must be exercised in the

present case.

6. Learned counsel appearing for the petitioner has drawn attention of this court towards the representation submitted by the petitioner whereby she has raised her claim before the Secretary, U.P. Basic Education Board, Prayagraj and has requested for her transfer from District-Rampur to District-Ghaziabad. The aforesaid representation, till date, has not been decided.

7. On the other hand Smt. Archana Singh, learned counsel appearing for Respondents No. 2 and 3, though has opposed the writ petition but has agreed that if the petitioner has some extraordinary circumstances, then she can file a representation and that can very well be considered by the Respondent No.2.

8. In view of the aforesaid submissions advanced by the learned counsels appearing for the parties, without considering the merits of the case, this writ petition is **disposed of** with liberty to petitioner to file a fresh representation before Secretary, U.P. Basic Education Board, Prayagraj within a period of **three weeks** from today and if such representation is filed, Respondent No.2 is directed to consider and decide the petitioner's representation sympathetically by passing a speaking and reasoned order within six weeks thereafter.

9. It is also provided that in case Respondent No.2 passes an order of inter district transfer of the petitioner then the posting to the petitioner shall be given at the end of the academic session.

Order Date :- 28.11.2023

Kumar Manish.