

12.02.2021
Item No. 06
(P.Jana)

(Via Video Conference)

WPA 3463 of 2021

Manas Mandal
-Vs-
The State of West Bengal & Ors.

Mr. K.M. Hossain,
... for the petitioner.

Mr. Subhrangsu Panda,
... for the State respondents.

Mr. Prosenjit Mukherjee,
Mr. Nirmalya Kumar Das,
Ms. Madhurima Sarkar,
... for the Madrasah Service Commission.

Affidavit of service filed in Court today be kept
with the record.

The petitioner is an Assistant Teacher of Bio-
Science under Pass Category in Hossain Nagar D.O. Sr.
Madrasah(Fazil), P.O. Kolan Radhakantapur District :
Murshidabad.

The petitioner responding to an advertisement of
the West Bengal Madrasah Service Commission,
respondent no. 3 herein published in the year 2013
applied for general transfer.

The grievance of the petitioner is that although he
is otherwise eligible but he was not called in for the
counseling held for general transfer in the said year.

The petitioner in the instant writ petition is
praying for a direction upon the respondent no. 3 to
process his said application for general transfer.

Mr. Prosenjit Mukherjee, learned counsel
appearing on behalf of the respondent no. 3, submits the

petitioner was not called in for the counseling in the year 2013 as the original application was not forwarded to the Commission. He further submits that the counseling in respect of the applications against the said advertisement of 2013 is over long back as such at this stage it is not possible for the respondent no. 3 to consider the prayer of the petitioner.

Mr. Mukherjee, however, submits that on February 05, 2021 a fresh advertisement has been published inviting application for general transfer, and he suggests that the petitioner can apply afresh.

Mr. K.M. Hossain, learned counsel appearing on behalf of the petitioner, inviting my attention to a Memo bearing No. 1110-ME dated June 11, 2013 annexed to the writ petition submits that under the said memo the application of the petitioner was forwarded by the Director of Madrasah Education, the respondent no. 2 herein to the respondent no. 3 and from the said memo it will appear that the application of the petitioner was forwarded to the said respondent within time.

He however submits that his client has no difficulty in applying afresh but the petitioner since has already paid the requisite fees for such general transfer while making his earlier application, he may be exempted from making any further payment in respect of his fresh application.

Mr. Hossain further submits that the petitioner was not called in for the counseling without having any fault on his part, therefore, some preference may be given to him while processing his new application.

Mr. Mukherjee, responding to the said argument of Mr. Hossain submits that his client will not insist payment of requisite fees in respect of the new application of the petitioner but his prayer for giving him preference on his new application cannot be entertained due to bar of rules.

Heard learned counsel for the parties, perused the materials on record.

The respondent no. 3 did not call the petitioner for counseling against his earlier application although he was eligible and applied for such transfer within time. It was not the fault of the petitioner that the original application did not reach to the respondent no. 3 even though he applied through the proper channel.

Be that as it may the petitioner is agreeable to apply for his general transfer afresh responding to the advertisement dated February 05, 2021. If such an application is made, the respondent no. 3 shall exempt the petitioner from paying requisite fees on the said application.

The respondent no.3 while processing the applications in respect of advertisement dated February 05, 2021 shall consider the prayer of the petitioner for giving him some preference if rules permit so.

WPA 3463 of 2021 is disposed of with the above terms. No order as to costs.

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

(Biswajit Basu, J.)

