

12 14.09.2021
rkd Ct.05

W.P.A. 13492 of 2021
(Through Video Conference)

Kalyani Sarkar Hazra

-vs-

The State of West Bengal & Ors.

Mr. Aniket Mitra,
Mr. Pradip Kumar Ghosh

....for the petitioner.

Md. Sarwar Jahan,
Sk. Nageemul Haque

....for the respondent no.6 & 7.

Mr. Supriyo Chattopadhyay,
Mr. Sabyasachi Mondal

....for the State.

In this writ petition petitioner assails Memo dated 15th July, 2021 as well as subsequent Memo dated 27th July, 2021 and prays for allowing the writ petitioner to work as primary teacher in 7, Manindra Nagar High Primary School/Jr. basic school in the district of Murshidabad. By Memo dated 15th July, 2021 the writ petitioner was requested to return back to the primary school where she was working prior to her transfer to Manindra Nagar High Primary School and by subsequent Memo dated 27th July, 2021 the Sub-Inspector of Sadar West Circle upon scrutinising the document submitted by the petitioner found her to be fit to go back to her previous school since no order of the court was subsisting at the relevant point of time with regard to continuation of writ

petitioner as primary teacher in Manindra Nagar High Primary School.

Mr. Mitra, learned advocate appears on behalf of the writ petitioner and submits that the impugned Memoranda dated 15th July, 2021 and 27th July, 2021 are not tenable since such decision to transfer back the petitioner to the school where she was initially working was taken without affording any opportunity of hearing to the petitioner. In addition thereto it has also been submitted that the petitioner has been suffering from serious ailments as a result whereof if the petitioner is compelled to render her job as primary teacher in the school where she was initially appointed she has to travel 65 km approximately from her matrimonial home which considering her present physical condition is difficult for her.

Mr. Jahan, learned advocate appears on behalf of the District Primary School Council, Murshidabad and draws attention of this Court to the Memo dated 27th March, 2018 whereby the writ petitioner was deputed to act as an assistant teacher in Manindra Nagar School on purely temporary basis and it has been submitted on behalf of the respondent authorities that such order of deputation dated 27th March, 2018 does

not confer any right upon the writ petitioner to continue as an assistant teacher of Manindra Nagar Primary School sine die.

The learned advocates representing the parties to the writ petition has been heard and the relevant orders issued by the concerned respondent authorities have also been considered by this Court which relate to service of the petitioner.

An attempt has been made to impress upon this Court that considering the previous application of the petitioner which was made before the concerned respondent authority seeking transfer on the ground of indisposition of the petitioner the deputation order dated 27th March, 2018, at page 39 of the writ petition, was passed but on perusal of the said Memo dated 27th March, 2018 it transpires that such order was issued by the Chairman in administrative exigency not on the basis of application for transfer made by the writ petitioner. It also appears that the medical documents which are annexed to the writ petition are all relate to the years 2014 to 2016 save an except one document which is dated 28th May, 2019. The writ petitioner could not point out any application has been made based on the said medical documents dated 28th May, 2019 at page

37 of the writ petition seeking placement of the writ petitioner in a primary school nearby to her place of residence. Therefore the writ petition does not merit consideration and stands dismissed.

However, this order shall not prevent the writ petitioner to make appropriate application before the concerned respondent authorities seeking transfer on medical ground upon placing reliance on contemporaneous medical documents. If such application is made by the writ petitioner it will be considered by the respondent authorities in accordance with law.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)