

Court No. 17

WPA 14775 of 2021

10.12.2021

(AD 258)

(S. Banerjee)

Swagata Das

Vs.

The State of West Bengal & Ors.

(Via Video Conference)

Mr. Siddhartha Banerjee

Mr. Krishnendu De

Mr. Dyutiman Banerjee

... for the petitioner

Mr. Ranjan Saha

... for the State

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey

... for the WBCSSC

Mr. Washef Ali Mondal

... for the School

The misfortune of the petitioner in this matter is that she applied for transfer from a school in Nadia to a school nearer to her house. Her application for transfer was considered with the approval of the School Education Department and it was requested by the Commissioner of School Education to transfer the petitioner from the Nadia school to a school in Laketown under the Barrackpore Education District. The petitioner later found after receiving this letter of 27th January, 2021 that there was no vacancy for the post of assistant teacher in the subject Geography (pass) in Laketown Government Sponsored Girls' High School. Thereafter withdrawing the said recommendation the Commissioner of School Education recommended the petitioner in another school, namely Mohishpota Girls' High School in secondary section (class IX and X). After

receiving this information the headmistress of Mohishpota Girls' High School by her letter dated 24.02.2021 (handed over to this court by the learned advocate of the said school) and also by another letter dated 27.06.2021 (which is at page 90 of the writ application) drew attention of the District Inspector of Schools (SE), Barrackpore Educational District, saying that the school requires a teacher with the qualification of Honours/Post-graduate for teaching students of class XI and XII also as the vacancy is in Honours/post-graduate posts. Here, the petitioner joined his service as a pass graduate and a pass graduate post-holder cannot be allowed to teach in classes XI and XII.

I find that the anxiety of the headmistress of Mohishpota Girls' High school has some substance as she is writing in the interest of the students.

In the facts and circumstances, the petitioner who joined in a pass-graduate post should be transferred to a school where there is a vacancy in pass-graduate post.

Therefore, I set aside the letter of the Commissioner of School Education dated 23rd February, 2021 requesting the Board of Secondary Education to transfer the petitioner to Mohishpota Girls' High School and also I set aside the consequent transfer order issued by the Board on 25th February, 2021 which is at page 44 of the writ application.

I direct the Commissioner of School Education to recommend the petitioner in a school nearer to her residence and for this purpose he will definitely take

assistance from the District Inspector of Schools (SE), Barrackpore Educational District.

It is to be kept in mind that the petitioner is suffering for no fault on her part from not getting a proper transfer order and actual transfer by joining in a school nearer to her residence.

The petitioner is now working in a school in Nadia which is at a distance of 340 kilometers, to and fro, and she has a child who is suffering from respiratory disorder. These two factors are to be kept in mind by the authority who will take steps for her transfer to any other school nearer to the residence of the petitioner.

I direct the District Inspector of Schools, Barrackpore Educational District to intimate the vacancy of Mohishpota Girls' High School (HS) by 24th December, 2021 to the School Service Commission so that the Commission can take steps for filling up the post of Geography teacher in Mohishpota Girls' High School for the Honours/Post-graduate post. After receiving the requisition the Commission will take steps immediately without making any delay for recommendation of a teacher in the said school but of course following the procedure in this respect.

This court directs the Commissioner of School Education to see that the petitioner is transferred to a nearby school within a period of 45 days from the date of communication of this order.

With the above direction and observation this writ application is disposed of.

(Abhijit Gangopadhyay, J.)