

Item No.38

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

09.11.2021
Ct-5

WPA 15241 of 2021
Sumita Majumdar

v.

The State of West Bengal & Ors.

Mr. Shuvro Prikash Lahiri
... for the petitioner.

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
... for the State.

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
Ms. Deblina Chakraborty
... for WBCSSC.

Writ petitioner was an Assistant Teacher in Work Education/Physical Education Group in a Government aided secondary school in the district of Howrah.

The grievance of the writ petitioner voiced before this Court during the hearing of the writ petition is that twice she made applications for general transfer but her applications were sent back on the ground that she is holding a single teacher post in Bally Gajendra Balika Bidyalaya.

Petitioner was initially appointed in Bally Gajendra Balika Bidyalaya and subsequently she is discharging as

an Assistant Teacher in Physical Education/Work Education Group in Satashi High School in the district of Howrah.

It is submitted by Mr. Lahiri, learned advocate representing the writ petitioner that such arrangement was made thereby deputing the writ petitioner in Satashi High School since there was no roll strength in Bally Gajendra Balika Bidyalaya at the material point of time.

Petitioner prays for general transfer from her present school to a nearby school in terms of the relevant provisions of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015, (in short “Rules of 2015”) which is subsequently been amended by notification dated September 8, 2021.

According to the writ petitioner in terms of the amended Rule 6 of the said Rules of 2015 there is a bar imposed upon the teachers working in single teacher post which prevents the concerned respondent authorities to process the application of the writ petitioner made seeking general transfer.

Dr. Sutanu Kumar Patra, learned advocate appears on behalf of the West Bengal Central School Service Commission and submits that in view of bar imposed by amended Rule 6 of the Rules of 2015 teachers working in single teacher post are suffering and

they are not getting the benefit of general transfer and keeping in mind this difficulty faced by such teachers recently the Commissioner of School Education, West Bengal issued a Memo dated September 22, 2021 being No. 66(25)-CSE/2021 whereby a procedure has been framed for transfer of teachers working against single teacher post.

It is submitted that since such memo has been issued on September 22, 2021, copy of the same is placed before this Court, the writ petitioner may be given opportunity to avail benefit of such Memo dated September 22, 2021 by making application seeking general transfer.

Mr. Arindam Chattopadhyay, learned advocate representing the State respondents submits that the school where petitioner was initially appointed does not have any roll strength, as a result whereof she was deputed in Satashi High School, where she is working against a single teacher post, therefore whether in the case of the writ petitioner the provision as contained in Memo dated September 22, 2021 is applicable or not is not clear and opposed the prayer made by the petitioner for her transfer on special grounds in terms of the provision as contained in Memo dated September 22, 2021.

This Court has considered the submissions made on behalf of the rival parties to this writ petition and finds that vide Memo dated September 22, 2021 issued by the Commissioner of School Education, West Bengal a detailed procedure has been framed for extending the benefit of transfer to those teachers working in single teacher post in secondary schools including the Higher Secondary Section.

This Court does not find any reason to refuse the prayer of the writ petitioner for consideration of her application for general transfer by the concerned respondent authorities in terms of the said Memo dated September 22, 2021 which is in vogue as submitted by the learned advocate representing the parties.

Since the previous two applications of the writ petitioner have been spurned by the respondent authorities this Court grants liberty to the writ petitioner to make application in terms of the said Memo dated September 22, 2021 issued by the Commissioner of School Education, West Bengal within a period of fortnight from this date. If such application is made within the aforesaid period the respondent authorities shall make an endeavour to process the application of the petitioner for general transfer within a reasonable time. The exercise, which is to be carried by the respondent authorities for processing the application of

the writ petitioner, shall be completed not later than sixteen weeks from the date of receipt of the application from the writ petitioner.

With the above direction, the writ petition is disposed of.

There shall be no order as to costs.

However, it will be open to the writ petitioner to make offline application in terms of this order if her online application is rejected mechanically.

Memo dated September 22, 2021 issued by the Commissioner of School Education, West Bengal is taken on record.

The parties to act on the basis of the server copy obtained from the official website of this Hon'ble Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

Sh

(Saugata Bhattacharyya, J.)