

30.12.2021
Supple SL.No.1
BP/KS

(Through Video Conference)

W.P.A. 21508 of 2021

**Smt. Dipika Bala Biswas
Vs.
The State of West Bengal & Ors.**

Mr. Shamim Ul Bari
Mr. K. M. Hossain
Ms. Molly Saha
..... For the Petitioner
Mr. Jahar Dutta
Mr. Milan Kumar Maity
.....For the State

The petitioner files affidavit of service and the same be kept on record which reveals that the copy of the writ application has been served upon all the respondents.

Despite service of copy of the writ application respondent nos.4 and 5 are not represented before this Court.

The instant writ application has been preferred by the petitioner, Dipika Bala Biswas challenging the transfer order dated 24th December, 2021 made by the Chairman, North 24 Parganas, District Primary School Council.

Learned lawyer appearing for the petitioner submits that the transfer order does not spell of the reasons of transferring the petitioner to an another school. The Coordinate Bench of this Hon'ble Court by an order dated

16th December, 2021 passed in W.P.A. 17282 of 2021 quashed another transfer order of the petitioner on the grounds that the transfer order did not contain the reasons. Learned lawyer further submits that as the school where the petitioner is a teacher has no surplus of teachers, the petitioner should not have been transferred. Under such facts and circumstances, the learned lawyer submits that the aforesaid transfer order be stayed.

Learned lawyer appearing for the respondent nos.1 to 3 and 6 and 7 submits that the transfer order does not require mentioning of any reason. Learned lawyer submits that the authority concerned may transfer a teacher from one school to another in the public interest. Rule 4 of the West Bengal Primary Education (Transfer of Teachers including Head Teacher) Rules, 2002 enjoins as under:-

"4. Condition for transfer: - A Council may-

(a) on its own motion, or

(b) on an application from a teacher, transfer approved teacher within its jurisdiction from one primary school to another primary school on the condition that such approved teacher is confirmed and has completed minimum two years of continuous service both in case of mutual or single transfer;

Provided that the Council may, if it considers necessary for proper utilization of service of a primary teacher in the interest of education, transfer an approved teacher without maintaining any time limit of service;

Provided further that where there is a surplus teacher according to roll-strength as stated in rule 3, the Council may, on its own motion, transfer such approved teacher without maintaining any time limit of service by way of rational adjustment of teacher in a primary school having deficit teacher in the following order of preference:

- (i) a primary school without an approved teacher,*
- (ii) a primary school having single teacher, and*
- (iii) other primary school having shortage of teacher."*

As the Rule quoted above reads; the Council may transfer a teacher on its own motion or on an application from a teacher, transfer approved teacher within its jurisdiction from one primary school to another primary school on the condition as the approved teacher is confirmed and has completed minimum two years of continuous service both in case of mutual or single transfer. However, if the Council considers it necessary for proper utilization of service of a teacher in the interest of education it may transfer an approved teacher without maintaining any time limit of service.

To transfer a teacher from one school to another is within the domain of District Primary School Council. It may transfer a teacher on its own motion or any of the grounds as enumerated above.

The transfer order dated 24th December, 2021 as impugned reads as under:-

“Dipika Bala Biswas, H. T. of Barasat Mahatma Gandhi G.S.F.P. School No.-1 under Barasat - West Circle is hereby transferred to Subhasnagar F.P. School under same Circle.

She should join the above post within 30.12.2021 and handed over the charge within 29.12.2021 and should report to the respective Sub-Inspector of Schools.

All concerned are informed accordingly.”

As the post of a teacher is transferrable, the authority concerned may transfer a teacher from one school to another in terms of the Rule 4 as well as in the public interest. What I think, a transfer order does not require reasons in detail.

In view of the above, I do not find any justification to interfere with the transfer order as impugned.

Accordingly, the writ application is dismissed.

No order as to costs.

However, the petitioner is permitted to join Subhasnagar F.P. School by 07.01.2022.

Urgent certified website copies of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(Rabindranath Samanta, J.)

