

24.03. 2022

Sl. 27
BP
Ct. No.17

WPA 748 of 2022

Tapas Mukherjee
Vs.
The State of W. B. & Ors.

Mr. Ujjal Ray
Mr. Arpa Chakraborty
.....For the Petitioner

Mr. Raja Saha
Mr. Biswabrata Basu Mallick
.....For the State
Dr. S. K. Patra
Ms. Supriya Dubey
.....For SSC

Affidavit of service filed in court today be kept
on record.

The petitioner filed his application for transfer from his present school to another school through Utsasree Portal on 15th August, 2021. The application reached Head of the Institution. The Head of the Institution returned the application on 31st August, 2021 on the ground of single teacher. As the petitioner applied on 15.08.2021 for transfer, his right accrued on the day when the application was filed when it was the General Transfer Rules, 2015, which held the field. The amendment to the above Rules wherein for the first time the single teacher condition emerged came into effect in the month of September, 2021. Therefore, the case of the petitioner is not covered and cannot be covered by the amended General Transfer Rules, 2015. The

amendment does not have any retrospective effect also. Therefore, the case of the petitioner is to be decided on the basis of the provisions of unamended General Transfer Rules, 2015 and not under the amended Rules.

Therefore, I set aside and quash the decision of the Head of the Institution for sending back the petition on the ground of single teacher.

I direct the Head of the institution to forward the case of the petitioner by three days from the date of communication of this order to the next higher authority.

The petitioner is granted liberty to select other schools by way of a fresh application only for the purpose of selecting schools because in the meantime there may be a chance of filling up the post of the schools which the petitioner selected in his previous transfer application. If such posts which in the first application of the petitioner remain vacant, he definitely will have the right to opt for any such school/schools.

With the above direction the writ application is disposed of.

(Abhijit Gangopadhyay, J.)

