

Court No. 17

WPA 1837 of 2022

15.03.2022

(AD 244)

(S. Banerjee)

Soma Deb

Vs.

The State of West Bengal & Ors.

Mr. Ujjal Ray
Ms. Sreyanshi Majumdar

... for the petitioner

Mr. Wasim Ahmed
Sk. Md. Masud

... for the State

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey

... for the 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 4th August, 2021. The application was processed and it reached upto School Service Commission. The School Service Commission returned the application on 4th September, 2021 on the ground of single teacher. As the petitioner applied on 04.08.2021 for transfer, his right accrued on the day when the application was made when it was the General Transfer Rules, 2015, which held the field. The amendment to the Rule 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 Rules of General Transfer Rules, 2015 as the said amendment does not have any retrospective effect. Therefore, the case of the petitioner is to be decided on the basis of the provisions of unamended General Transfer Rules, 2015 and not the amended Rules.

Therefore, I set aside and quash the decision of the School Service Commission for sending back the petition on the ground of single teacher.

I direct the Secretary of the School Service Commission being the Respondent No.3 to revisit the case of the petitioner within a period of ten days from the date of communication of this order and to pass necessary order in respect of the transfer if the petitioner is otherwise eligible for transfer.

I also direct the petitioner to communicate this order immediately.

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

With the above direction the writ application is disposed of.

(Abhijit Gangopadhyay, J.)