

Court No. 17

WPA 1844 of 2022

15.03.2022

(AD 246)

(S. Banerjee)

Pranabesh Biswas

Vs.

The State of West Bengal & Ors.

Mr. Sudipta Dasgupta

Mr. Arka Nandi

... for the petitioner

Mr. Biswajit De

Ms. Sudeshna Das (Majumdar)

... for the State

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey

... for the SSC

Let the affidavit of service filed in court today be kept with the record.

The petitioner filed his application for transfer from his present school to another school through Utsasree Portal on 27th August, 2021. The application was processed and it reached upto the concerned District Inspector of Schools. The District Inspector of Schools returned the application on 2nd September, 2021 (through Headmaster of the school) on the ground of single teacher. As the petitioner applied on 27.08.2021 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. The amendment has no retrospective effect also. Therefore, the case of the petitioner is not covered and cannot be covered by the amended Rules of General Transfer Rules, 2015. Therefore, the case of the petitioner is to be decided on the basis of the provisions of unamended General Transfer Rules, 2015 and not following the amended Rules.

Therefore, I set aside and quash the decision of the said DI of schools for sending back the petition on the ground of single teacher.

I direct the said DI being the Respondent No.5 to revisit the case of the petitioner within a period of seven days from the date of communication of this order and send the application to the next authority for processing the transfer.

I direct the petitioner to communicate this order immediately.

The petitioner is granted liberty to file the application afresh, if required, only for the purpose of opting some new schools through Utsoshree portal as the posts in the school for which the petitioner opted through Utsoshree portal earlier might have been filled up in the meantime. So the petitioner may apply with new school including the schools for which he applied earlier if the posts in the school opted previously are still vacant.

With the above direction the writ application is disposed of.

(Abhijit Gangopadhyay, J.)