

Court No. 17

WPA 3372 of 2022

23.03.2022

Brahmananda Jana

(AD 315)

Vs.

The State of West Bengal & Ors.

(S. Banerjee)

(Via Video Conference)

Mr. Sakti Pada Jana
Mr. Subhajyoti Das

... for the petitioner

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee

... 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 applied for transfer from his present school to another on 10th August, 2021. His application ultimately reached to the School Service Commission but the Commission sent it back through the District Inspector of Schools (SE) on 5th September, 2021, as appears from Annexure P-4 of the writ application, on the ground of single teacher.

The question of transferability of single teacher came after the amendment of General Transfer Rules, 2015 in September, 2021 and not before that.

Therefore, the application of the petitioner is to be considered under the unamended General Transfer Rules, 2015. It is to be kept in mind that the amendment does not have any retrospective effect.

Therefore, the remark of the Commission for sending it back on the ground of single teacher is not tenable in the eye of law and, therefore, it is set aside and quashed.

I direct the Commission to revisit the matter in view of the observations made as aforesaid immediately within a period of seven days from the date of communication of this order because the Commission made mistake in September, 2021. The entire exercise is to be completed by two weeks from the date of communication of this order and the Commission is directed to transfer the petitioner-teacher if he is otherwise eligible for transfer.

The petitioner is granted liberty to select other schools by way of a fresh application through Utsashree portal by using the same no-objection certificate 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 he selected in his previous application for transfer. 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 observations and directions above, this writ application is disposed of.

(Abhijit Gangopadhyay, J.)