

27.06.2022
Court No.13
Item No.109
sp

WPA 4989 of 2022

Debabrti Bhattacharya
Vs.
State of West Bengal & Ors

Mr. Tamal Taru Panda
... .. for the petitioner

Mr. Bhaskar Prosad Vaisya,
Mr. Mrinal Kanti Biswas
...for the State

Mr. Prasenjit Mukherjee,
Ms. Madhurima Sarkar
...for the Madrasah Service Commission

The petitioner before me was appointed by the West Bengal Central School Service Commission and not by the West Bengal Madrasah Service Commission on 13.11.2007. The Madrasah Service Commission came into being in 2008. The petitioner did not have any option to select her place of work by way of counselling at that point of time and it was the West Bengal Central School Service Commission which recommended her to different Madrasahs and as, at that point of time, both Madrasah schools were covered by the School Service Commission Act. Thus at that point of time, in respect of the Regional Level Selection Test, some candidates were appointed in schools and some candidates were appointed in Madrasahs. Therefore, the candidates who appeared in the Regional Level Selection Test conducted by the School Service

Commission appointed in schools are getting advantage of transfer through Utsoshree portal but the petitioner, who had no choice but to join the educational institutions namely Madrasahs not by her choice but by the School Service Commission, are being deprived of the benefit of transfer through Utsoshree portal.

In my view, this is clearly violation of Articles 14 and 16 of the Constitution of India. Therefore, I direct the Principal Secretary of the School Education Department to consider the matter of the petitioner who wants to be covered by the Utsoshree portal and not by on-line application for General Transfer, 2021 or any other such procedure of Madrasah Service Commission.

I direct the Principal Secretary of School Education Department to give an opportunity of hearing to the representative of the Madrasah Service Commission and the petitioner and thereafter pass a reasoned order keeping in mind that the teachers of the institutions which were given special rights to appoint their own teachers and not by the School Service Commission (like Ramkrishna Mission) have been given the right recently to get the advantage of the general transfer. The case of the petitioner is on the similar footing. The candidates who were recommended in Ramkrishna

Mission now have been given an opportunity to get transfer from Ramkrishna Mission to another school by way of general transfer (not by mutual transfer). The decision, after hearing the parties, is to be given by eight weeks from date of communication of this order.

Learned advocate for the Madrasah Service Commission has raised vehement objection by stating different difficulties that will be faced by the Madrasahs and I fail to understand what difficulties the Madrasah Service Commission will face if some teachers go to some other schools. In such an event the Madrasah Service Commission will get the opportunity to give employment to some other persons who want to work in Madrasah through Madrasah Service Commission.

Learned advocate for the Madrasah Service Commission wanted to file one affidavit.

As I am passing direction for considering the matter after giving an opportunity of hearing. I do not find this is a fit case for exchange of affidavits.

With this observation and direction, this writ application is disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Rajasekhar Mantha, J.)