

Court No. 17

WPA 16855 of 2021

01.02.2022

(AD 55)

(S. Banerjee)

Chandan Dey

Vs.

The State of West Bengal & Ors.

(Via Video Conference)

Mr. Kamalesh Bhattacharya

Mr. Aninda Bhattacharya

... for the petitioner

Mr. Arindam Chattopadhyay

Ms. Lipika Chatterjee

... for the State

The petitioner filed one application for transfer on 20th August, 2021 which was returned by the School Service Commission showing the reason as follows:

“As decided by the meeting convened under the aegis of SED, GoWB on 26th August, 2021, 3 p.m. at Bikash Bhavan, the recommendation(s) for transfer cannot be issued at this stage, in cases where there is a single teacher.”

The petitioner filed her application on 20th August, 2021. Therefore, her right to be transferred arose under the General Transfer Rules of 2015 of the School Service Commission wherein there was no embargo for transfer of a single teacher. All such embargo and clarification and reclarification thereof and the meeting referred above came after the date of application for transfer of the petitioner. None of the amendment of the 2015 transfer rules, which came into effect from 8th September, 2021 and clarification thereof on 22nd September, 2021 and of course the meeting

referred as a reason dated 26th August, 2021 at 3 p.m. at Bikash Bhavan have no retrospective effect. Therefore, the transfer application of the petitioner is to be considered under the unamended 2015 rules before 8th September, 2021.

A report of the District Inspector of Schools (SE), Hooghly has been filed today from which it appears that some mundane and mindless sentences have been written without considering in proper light the case of the petitioner. The report is of no use so far as this writ application is concerned. However, the report is kept on record.

In such circumstances I direct the Commissioner of School Education, who is the appropriate authority, to take appropriate steps under the unamended Rules, of 2015 for general transfer, considering the observations made herein above within a period of 45 days from the date of communication of this order as the matter is pending for nearly more than last six months.

I direct the petitioner to serve a copy of this order on the Commissioner of School Education and if the Commissioner of School Education so desires, he may give an opportunity of hearing to the petitioner before the said 45 days and to pass a reasoned order by 10 days thereafter. In case the Commissioner's decision is in favour of the petitioner, the Commissioner will request the West Bengal Central School Service Commission to recommend the petitioner in the

appropriate school as has been selected by her in the Utsashree portal.

As the petitioner selected Narua Siksha Niketan for her transfer in Work Education group where two posts are vacant in the said group, I pass an interim order of not filling up the post of the said school till 60 days from date.

If the decision of the Commissioner of School Education goes in favour of the petitioner, the School Service Commission shall recommend the petitioner in Narua Siksha Niketan. In case the decision of the Commissioner of School Education goes against the petitioner, the interim order passed today for keeping one post vacant in the said school in the Work Education group, will automatically be vacated.

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

A broad-sheet taken out from Utsashree portal showing the comments etc. and different dates indicating the movement of transfer application, as has been produced by the petitioner, be kept with the records.

(Abhijit Gangopadhyay, J.)