

Court No. 17

WPA 17237 of 2021

04.01.2022

(AD 58)

(S. Banerjee)

Dipak Chakraborty

Vs.

The State of West Bengal & Ors.

(Via Video Conference)

Mr. Saikat Banerjee
Mr. Bibekananda Tripathi

... for the petitioner

Mr. Suddhadev Adak

... for the State

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey

... for the SSC

Ms. Saswati Chatterjee

... for the WBBSE

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

This is a case of mutual transfer of Group D staff of schools.

The petitioner's mutual transfer was allowed and the mutual transfer was to be made by one Matilal Handal, the respondent no. 16 herein. The respondent no. 16 by writing a letter to the petitioner has intimated that for his health condition he would not be able to accept the mutual transfer.

The counterpart of the petitioner, being the respondent no. 16, has every right, in my view, to change his mind and in that event the petitioner shall

have every right to file further application for mutual transfer.

Learned advocate for the petitioner has drawn my attention to guidelines to applicant of Secondary, HS School seeking transfer at pages 18 and 19 of the writ application. Paragraph 6 of the said guidelines is as under:

“6. You will be able to edit application till finalization. Once submitted, it will be locked at your end.”

It is the submission of the petitioner that this expression ‘locked at your end’ shows some sort of finality and after this ‘lock’ the petitioner cannot say that he would not take the transfer.

I hold that this expression ‘lock’ is in respect of other school or other particulars where a party wants to be transferred and not in respect of his future decision. A person remains free until he binds himself in a lawful contract and here there is no such lawful contract wherefor the respondent no. 16 can be compelled to go to the school where he has been recommended against the mutual transfer application.

I do not find any reason to compel the private respondent no. 16 to accept the mutual transfer. Hence, this writ application is dismissed. He has every right to change his mind and decision till the other

party has altered his position to his detriment. Here there is no such situation.

However, this dismissal will not prevent the petitioner from applying afresh and the rule providing seven years embargo from applying again will not be applicable in this case as it is not the petitioner who does not want transfer but it is the private respondent who refused the transfer, Petitioner's interest should not be jeopardized for that.

(Abhijit Gangopadhyay, J.)