

25.07.2023
SL No.43
Court No.8
(gc)

**MAT 754 of 2022
CAN 1 of 2022**

**Pijush Kanti Das
Vs.
The State of West Bengal & Ors.**

Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya,
Ms. Mithu Singha Mahapatra,
...for the Appellant.
Mr. K.M. Hossain,
Mr. Tapas Kr. Mandal
...for the State.
Mr. Shuvro P. Lahiri,
...for the Intervener/Amicus.

The affidavit of service filed on behalf of the appellant is kept with the record.

The appeal and the application are taken up together and disposed of by this common order.

The appellant filed an application for transfer on two-fold ground, namely, distance and serious ailment of his wife.

The application was processed through the portal designated. It appears that due to non-disclosure of the nature of the disease of the wife, the learned Single Judge did not accept the prayer of the appellant for transfer. Moreover, insofar as the medical ground is concerned, the authorities have stated that the disease referred to by the appellant is not one of the diseases included in the list for consideration in a case of transfer.

However, it appears that the Head of the Institution rejected the application on the ground of single teacher. It is now well-settled that a single teacher may not be the ground to deny the transfer if the petitioner is able to fulfil other conditions. The State is yet to frame a proper guideline to that effect. There may be various circumstances which could be exceptional for considering the case of transfer of a teacher, namely, long distance, medical ground and family issues to refer to a few. In fact, this issue was addressed by the Commissioner of School Education in the Memo No.66(25)-CSE/2021 dated 22nd September, 2021. It appears that the learned Single Judge who had decided the issue against the writ petitioner had, in fact, in another matter by an order dated 23rd December, 2021 in ***WPA 16082 of 2021 (Satyajit Saha Vs. The State of West Bengal & Ors.)*** set aside and quashed the decision of the School Service Commission in refusing to transfer a teacher on the ground that he was a single teacher in the post. It appears from the impugned order that this issue was not addressed by the learned Single Judge although it was stated in the writ petition.

Under such circumstances, we set aside the order passed by the learned Single Judge and we direct the Head of the Institution to forward the application for transfer to the District Inspector of

Schools who shall consider the application for transfer afresh and shall not reject the said application merely on the ground that he is a single teacher to the said post.

Accordingly, the appeal and the application are disposed of.

However, there shall be no order as to costs.

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

(Uday Kumar, J.)

(Soumen Sen, J.)