

Item-
49&50. 09-08-2023

sg Ct. 8

MAT 819 of 2022
CAN 1 of 2022

Manas Ghosh
Versus
Papia Sen Modak & Ors.

And

MAT 835 of 2022
CAN 1 of 2022

Penchara Jr. High School,
represented by Teacher-in-Charge & Anr.
Versus
Papia Sen Modak & Ors.

Mr. Anjan Bhattacharya, Adv.
Ms. Anita Shaw, Adv.

... For the Appellants

Mr. Ekramul Bari, Adv.
Sk. Imtiaj Uddin, Adv.

... For the Respondent no.1

Dr. Sutanu Kr. Patra, Adv.
Ms. Supriya Dubey, Adv.

... For the WBCSSC

Ms. Koyeli Bhattacharyya, Adv.

... For WBBSE

Mr. Jaydip Basu, Adv.

... For the State

1. Both the appeals are taken up together for hearing and disposed of by this common order.
2. The teacher-in-charge of Penchara Junior High School is aggrieved by an order by which disciplinary proceeding was initiated against the teacher-in-charge for his acts of omission in not forwarding the application for transfer of one Papia Sen Modak in time. He appears to have been proactive in sending the application of one Manas Ghosh to D.I., who admittedly was junior to Ms. Modak and had applied for mutual transfer after Ms. Modak. By reason of sending the

application of Manas earlier, the said application was processed by the D.I. within a very short time and allowed the transfer. By reason of the order of transfer in favour of Manas, the application for Papia could not be considered on the ground of single teacher post.

3. It is not in dispute that the teacher-in-charge of the school was required and obliged to forward the application for Papia prior to Manas and it seems to have irked the learned Single Judge in directing disciplinary proceeding to be initiated against the teacher-in-charge for such act of omission and negligence. However, as it stands now, Manas has been reverted to the parent school and the application for transfer of Papia was allowed and she has been transferred to the school where she wanted to be transferred. This was allowed by the D.I.
4. At the time of admission of the appeal, an order was passed by a coordinate Bench on 26th May, 2022 where it was observed that there was no adequate materials before the learned Single Judge for holding that the teacher-in-charge is guilty of misconduct and there cannot be any justification in restraining him from entering into the school premises. The order directing stoppage of payment of salary of the teacher-in-charge was, however, recalled by the learned Single Judge. We confirm the said finding.
5. In view of the changed circumstances, we are of the view that there is no necessity for us to decide these appeals on merits.
6. However, we direct the Commissioner of School Education

to hold an inquiry with regard to acts of omission committed by the teacher-in-charge in not forwarding the application of Papia in time and also the conduct of the D.I. (S.E.), Purulia with regard to processing of the application for transfer of Manas within three days. It needs to be ascertained when such D.I. has received the application of Ms. Sen.

7. In the event of negligence or overt act of the teacher-in-charge and D.I. are proved, the Commissioner shall take appropriate steps in accordance with law within the aforesaid period.
8. The entire process shall be completed within a period of six weeks from the date of communication of this order by Ms. Koyeli Bhattacharyya, learned Counsel for the West Bengal Board of Secondary Education.
9. The impugned order stands modified to the aforesaid extent.
10. With the above observations, both the appeals and the connected applications are accordingly, disposed of.
11. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)