

137 17.4.2023
Sc Ct. no.22

WPA 10875 OF 2022

Sangita Basu

Vs.

The State of West Bengal & Ors.

Mr. Ujjal Ray

.... For the Petitioner

Ms. Rama Halder

.... For the State/
Respondent Nos.

1, 4, 5 & 7

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey.

.... For the WBCSSC/
Respondent Nos.2 & 3

Affidavit-of-service, filed in Court today, is taken on record.

The petitioner at present is working as an **Assistant Teacher at Brahmanpara Chintamoni Balika Vidyalaya, District – Howrah**. The petitioner claimed to have applied for **General Transfer** on the ground of “**Distance**” that she had to travel more than 25 Kilometers from her residence one way which itself is a ground for transfer according to the petitioner within the provisions made under the **Transfer Rules, 2015**.

Mr. Ujjal Ray, learned counsel appearing for the petitioner drew attention of this Court at page 22 to the writ petition and submitted that, the respondent no.2 had rejected the case of the petitioner for transfer on the ground of “**Single Teacher**”. The petitioner submitted that, it is the statutory obligation on the part of the respondent no.5 to make an alternative arrangement in

terms of the said Transfer Rules to enable the petitioner to receive her claim for transfer.

In the instant case, the respondent no.5 being the statutory authority had failed to carry out the statutory obligation by not taking any step for arranging the alternative teacher in place of the petitioner.

Learned counsel for the petitioner further submitted that, on the date of filing of the application for transfer and the rejection of the case for transfer of the petitioner, it was also not the obligation of the respondent no.5 to make such an alternative arrangement.

Learned counsel for the petitioner now prayed for reconsideration of the application of the petitioner in view of the changed rules that, ***the respondent no.5 shall make an alternative arrangement.***

Ms. Rama Halder, learned advocate appeared for the respondent nos. 1, 4, 5 and 7 as mentioned in the cause title.

Dr. Sutanu Kumar Patra, learned counsel appeared for the West Bengal Central School Service Commission/ respondent nos. 2 and 3.

Considering the submissions made on behalf of the appearing parties and considering the materials on record, this court is of the firm view that, the respondent no. 2, at the relevant point of time, rejected the prayer for transfer of the petitioner on the ground of “***Single Teacher***” after causing necessary fact finding inquiry and

the petitioner had not come up with a case that, there were more than “**Single Teacher**” in school so that, the reason for rejection was *ex facie* bad in fact and law.

In view of the above, this Court does not find any infirmity in the impugned decision rejecting the transfer of the petitioner and is not inclined to interfere therewith.

However, this order shall not preclude the petitioner to apply afresh in an appropriate stage and situation strictly in accordance with law.

It is made clear that, this order shall not create any equity or right in favour of the petitioner if the petitioner ultimately is not eligible to receive her claim for transfer strictly in accordance with law.

With these observations, this writ petition, **WPA 10875 of 2022** stands dismissed, without any order as to costs.

(Aniruddha Roy, J.)