

W.P.A. 11542 of 2022

Sutapa Murmu
Vs.
The State of West Bengal & Ors.

Mr. Shuvro P. Lahiri,
Mr. Rajesh Naskar ... For the petitioner.

Mr. Sourav Mitra
... For the Central School Service Commission.

Affidavit-of-service filed on behalf of the petitioner
be kept with the record.

The petitioner is an Assistant Teacher in History
under Normal Section in Mohadevpur High School,
District – Purba Burdwan.

The petitioner applied for general transfer under
the ***Utsashree Portal***. The said application of the
petitioner was once rejected. The petitioner challenged
the said decision in W.P.A. 5881 of 2022.

A Co-ordinate Bench of this Court disposed of the
said writ petition by the order dated April 13, 2022
whereby the District Inspector of Schools(S.E.) Purba
Burdwan, the respondent no. 5 herein, was directed to
reconsider the prayer of the petitioner.

The said respondent by the order under challenge
bearing Memo bearing No. 39/1/2/L.S. dated June
03, 2022 has rejected the prayer of the petitioner
again holding that the school authority by issuing no
objection to the prayer of the two teachers of the

school for general transfer has already exhausted its authority to issue further no objection.

Mr. Lahiri, learned advocate for the petitioner submits that the respondent no. 5 has committed a serious error of law in importing the concept of 10% rule in rejecting the prayer of the petitioner without considering the clarificatory notification of the School Education Department, Secondary Branch, Government of West Bengal bearing No. 10-SE/SE/S/1S-04/95 (Pt.III) dated January 03, 2022 whereby the Rule 6(2)(d) of the WBSSC (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 has been clarified to the effect that the school shall consider the total applications not more than 10% of total teachers' strength of school provided that if sanctioned strength of a school is five (5) or less than five (5), application of such transfer may be dealt with administratively for which guidelines will be issued by the State Government separately. Therefore, according to him the 10% rule is applicable so long teachers strength does not go down to five or less than five but in the present case since the school has 17 teachers, there is no scope that the teacher strength would be reduced to 5 if the prayer of the petitioner is allowed.

He further submits that the shortage of teacher cannot be a ground for rejection of the prayer for

general transfer as the authorities are under obligation to make alternative arrangement.

Mr. Mitra, learned counsel for the commission submits that the school has only 14 teachers left after allowing prayer of some teachers for general transfer which is absolutely inadequate for 1202 students of the School. That apart the petitioner is much junior teacher.

Having heard the learned counsel for the parties and on perusal of the materials on record it appears that the school is in acute shortage of teachers, it has student strength of 1200, therefore, the respondent no. 5 has committed no error in rejecting the prayer of the petitioner for general transfer. The order impugned does not call for interference.

W.P.A. 11542 of 2022 is dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

Parties to act on the server copy of this order downloaded from the official *website* of this Court.

(Biswajit Basu, J.)