

15.06.2023

MAT 943 of 2022
With

CAN 1 of 2022

Paramita Das
-Vs-
State of West Bengal & Ors.

Mr. S. P. Lahiri
Ms. Tithi Mazumdar ... for the Appellant
Mr. Rajesh Naskar

Mr. Vaskar Prasad
Mr. Suman Dey
... for the State

Mr. Sutanu Kumar Patra
Mr. Sourav Mitra
... for the W.B. Central School Service Commission

Party/Parties is/are represented in the order of
their name/names as printed above in the cause title.

By the previous order of this Court dated 8th
June, 2023, Learned State Counsel was permitted to
furnish the list of vacancies by way of a Report
depicting the post to which the appellant/the writ
petitioner can be conveniently posted.

The instruction of the Commission of School
Education, West Bengal reads as follows:

*“ In Connection with the aforesaid
matter, the District Inspector of Schools (SE),
Hooghly has submitted vacancies in the
following three schools, vide his memo no.
948/SE dated 13.06.2023, where the petitioner
may be accommodated on transfer.*

- 1. SARADAPALLY KANYA VIDYAPITH.*
- 2. HARIPAL T.B. GIRLS HIGH SCHOOL.*
- 3. BANDIPUR GIRLS HIGH SCHOOL.*

*This is for humble submission before the
Hon’ble Court.”*

However, it is submitted by Mr. Vaisya, Learned Additional Government Pleader, by placing the above instruction that the issue of transfer of teachers in Schools all over West Bengal, is now pending consideration in a Reference before a concurrent Hon'ble Division Bench.

It is further pointed out that the appellant/the writ petitioner is engaged as a teacher in a School in the subject of Mathematics and any transfer without finding the replacement for her would be detrimental to the interest of both the School from which transfer is sought and the students of the said School.

Mr. Mitra, Learned Counsel led by Dr. Patra, learned Senior Counsel appearing for the respondents/West Bengal Central School Service Commission (for short, the Commission), reiterates the position that by the Order impugned in this appeal the appellant/the writ petitioner was permitted by the Hon'ble Single Bench to apply afresh for transfer. It is further submitted that it is surprising that although the appellant/the writ petitioner had the option to apply afresh (*supra*), no such option was exercised.

The contention of Mr. Mitra (*supra*) is resisted by Mr. Lahiri, Learned Counsel appearing for the appellant/the writ petitioner, on the ground that the respondents are toying with the transfer policy and are now seeking to frustrate the acceptance of the transfer

of the appellant/the writ petitioner by making the same conditional upon finding a substitute single Teacher in place and stead of the appellant for the School-in-issue.

It is contended that this was never the primary intendment of the Transfer Policy and it is a fact that hundreds of persons have been transferred earlier, including Single Teachers, through the portal of the State, which now stands temporarily closed.

Having heard the parties and anxiously considering the materials placed, this Court at this stage, is required to notice the fundamental fact that the appellant/the writ petitioner has served the School-in-issue as a single Teacher for more than 10 years and she now has a three-year-old child to look after.

The appellant/the writ petitioner is also legally in a position to exert her right of transfer as part of her conditions of appointment.

In the backdrop of the above discussion, this Court permits the appellant/the writ petitioner to opt for transfer to Saradapally Kanya Vidyapith, as indicated in the Report of the Commissioner of School Education in which a vacancy exists.

However, this order of transfer will take effect from the 1st of August, 2023, till which date the appellant/the writ petitioner shall continue to serve in

her present school.

The above direction is passed considering the stand of the respondents that they may require at least four weeks time to find out a replacement for the appellant/writ petitioner in the School-in-issue.

In view of the order passed above, the order impugned of the Hon'ble Single Bench ceases to have effect.

It is also made clear that this order be treated to be without precedence and, has been passed having regard to the particular facts of this case.

MAT 943 of 2022 along with **CAN 1 of 2022** stand accordingly **disposed of**.

Since affidavits are not invited, all other allegations stand denied.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied to the parties, subject to compliance with all requisite formalities.

(Supratim Bhattacharya, J.)

(Subrata Talukdar, J.)