

Court No. 22
09.01.2023
(Item No. 10)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 18271 of 2022

Surajit Sajjan
VS
The State of West Bengal & Ors

Mr. Subhrangsu Panda
..... for the petitioner
Mr. Kanak Kiran Bandyopadhyay
.... For WBCSSC

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

The petitioner at present is an **Assistant Teacher** for the subject **Philosophy** at **Godda Ganapati Adarsha Vidyapith (H.S.), District Murshidabad**. The petitioner sought for transfer particularly on the ground that, he has to treat his son who is suffering from alleged serious ailments and in support the petitioner has disclosed certain medical documents at **pages 29 to 135** to the writ petition. The petitioner had invoked **sub-rule (1a) to Rule 4 of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Re-allocation) Rules 2015** (for short, the **2015 Rules**) as amended from time to time. The original Rule 4(1a) of the said 2015 Rule is quoted below:

“4. General Transfer on Special ground – (1) An incumbent belonging to the following categories may apply for transfer on any of the special grounds, namely:-

- a) ***Any teacher or non-teaching staff or his/her son/daughter or spouse suffering from malignant disease, heart disease, renal failure, thalassemia, replacement of organ, serious gynecological disorder or physically disablement of 40% or more or to assist in proper treatment of self or his/her son/daughter or spouse;***

Subsequently by a notification bearing No. **08-SE/SE/S/15-04/95 (Pt.III)** dated January 3, 2022 the said Rule was amended, which is quoted below:

“NOTIFICATION

In exercise of power conferred by Rule 4(a) the Governor has been pleased to notify the following diseases against which an incumbent may seek transfer.

Any incumbent or his/her son/daughter/spouse suffering from the following diseases causing serious problem in attending the school:

- 1) Malignant diseases;***
- 2) Severe Heart diseases;***
- 3) Renal failure***
- 4) Thalassemia;***
- 5) Replacement of organ and***
- 6) Serious gynecological disorder”***

Mr. Subhrangsu Panda, learned counsel appearing for the petitioner submitted that, the son of the petitioner is suffering from a serious decease called **Myasthenia Gravis**. He submitted that, regular treatment was advised with a regular follow up for the son of the petitioner and same could not be

possible unless the transfer as prayed for by the petitioner is effected.

Mr. Kanak Kiron Bandyopadhyay, learned advocate appears for respondent Nos. 4, 5 and 6 referring to the relevant Rules as quoted above submitted that, the decease of the son of the petitioner does not fall within the scheduled decease either mentioned in the original 2015 Rules or in the amended Rule as quoted above.

Considering the submissions made on behalf of the parties and considering the relevant materials on record, this Court is of the view that, transfer is not a matter of right. In as much as, the relevant Rules are also framed by the State Executive for allowing transfer as quoted above.

From a close scrutiny of the said Rules and provisions for transfer quoted above, it appears to this Court that, the decease from which the petitioner's son is suffering namely, **Myasthenia Gravis** is not covered within the ambit and scope of any of the provisions for transfer as quoted above on the medical ground of the son of the petitioner.

For the foregoing discussions and reasons, this Court is of the firm view that, this writ petition is devoid of any merit.

Resultantly this writ petition being **W.P.A. 18271 of 2022** stands dismissed.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)