

10. 04.01.2023
bd. Ct.15

W.P.A. 19775 of 2022

Piu Patra

-vs-

The State of West Bengal & Ors.

Mr. Saktipada Jana

Mr. Subhajyoti Das

... for the petitioner.

Mr. Supriyo Chattopadhyay

Mr. Suman De

... for the State.

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey

... for the WBCSSC.

Ms. Koyeli Bhattacharya

... WBBSE

The petitioner is an assistant teacher in a junior high school who has prayed for transfer from the present school to another school and in pursuit of the same first she made an application on the ground of distance in between school where the petitioner is serving and the place of her residence which is 155 Kms. It appears from page 33 of the writ petition that the application on the ground of distance was sent back by the authorities to the head of the institution where the petitioner is serving on 28th January, 2022. Subsequently, petitioner changed her stand and made an application for transfer on medical ground on 6th February, 2022 based on certain medical documents some of which were obtained after 28th January, 2022 as it appears from page 21 of the writ petition.

However, since petitioner applied on medical ground seeking transfer from her present school to other school the said application was processed by the respondent authorities but ultimately petitioner was not transferred to one of the three schools in respect of which she made application for transfer.

It appears from the report filed on behalf of the West Bengal Central School Service Commission in the form of an affidavit that in respect of three schools where the petitioner sought transfer three other candidates namely Sangita De, Tripti Mondal and Tapan Show were transferred since they ranked above the petitioner in the list which was prepared for transfer. It has been specifically stated in the report that petitioner ranked much below the candidates who got recommendation on medical ground in her first and second preferred schools therefore she could not be recommended for transfer to the schools as sought for.

Since the petitioner was not transferred based on her application on medical ground made on 6th February, 2022 she has made an attempt to take advantage of one memo dated 19th September, 2022 issued by the Secretary, West Bengal Central School Service Commission wherein opportunity was granted to the candidates who have grievances relating to transfer. Probable reasons behind such grievances are indicated in the said memo itself. Though serial no. 3 of the reasons stated in the memo dated 19th September, 2022 indicates that

grievance related to rank can be ventilated but as per said memo dated 19th September, 2022 the candidates are required to raise such grievances on a particular website as stated at the end of the said memo.

Petitioner has not applied on the said portal as per said memo dated 19th September, 2022 but she has made a representation to the Chairman of the Commission. However, Mr. Jana, learned advocate, representing the petitioner has disputed this fact and has submitted on placing reliance on a document annexed at page 8 to the supplementary affidavit that the petitioner made application on the particular website in terms of the memo dated 19th September, 2022.

On perusal of the reasons on which grievances can be ventilated to the Commission as per memo dated 19th September, 2022 it appears that there is an indication that on issue relating to rank such grievance can be raised. If this Court proceeds on the basis of the response made by the petitioner pursuant to this memo dated 19th September, 2022 based on the document being annexed at page 8 to the supplementary affidavit in that event too it appears that the same is required to be considered by the Commission in terms of the report submitted by the Commission in the form of an affidavit before this Court.

In paragraph 7 of the said report it has been clarified on behalf of the Commission that in spite of considering the application of the petitioner for

transfer on medical ground she could not be transferred since she ranked below the candidates who were favoured with order of transfer to the schools in respect of which petitioner applied for.

Though it has been prayed on behalf of the petitioner that an order may be passed directing the Commission to take a decision on the representation of the petitioner dated 14th October, 2022 but this Court finds that this will be futile exercise since the reasons have already been assigned by the Commission by filing report before this Court.

In addition thereto Mr.Chattopadhyay, learned senior Government advocate has placed reliance on a notification dated 29th December, 2022 issued by the Deputy Secretary to the Government of West Bengal wherefrom it appears that transfer of teachers has been temporarily stopped on suspension of Utsashree portal till 30th June, 2023. Such notification dated 29th December, 2022 is taken on record.

In view of the aforesaid facts this Court does not find any merit in the writ petition and the same stands dismissed. However, there shall be no order as to costs.

However, this order shall not preclude the petitioner to make application in accordance with law following the norms to be prescribed by the Commission in future for her transfer.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)