

23 25.09.2023
D.Hira Ct. 25

WPA 21397 of 2023

**Most. Khaledun Habiba Sarkar
Vs.
State of West Bengal & Ors.**

Mr. Kalyan Kumar Chakraborty,
Mr. Kashinath Bhattacharyya,
Ms. Rimasree Chatterjee.
.....for the petitioner

Mr. Pinaki Dhole,
Mr. Avishek Prasad.
... for the State

Written instructions as handed over in Court today, be retained with the record.

In the present writ petition the petitioner has prayed for transfer from Manikchak ICDS Project, Malda to Tapan ICDS Project, Dakshin Dinajpur. The petitioner is working as an Anganwadi Worker (AWW) at the Manikchak ICDS Project, in died-in-harness category. The petitioner's mother was engaged as an AWW at Manikchak ICDS Project. The petitioner's mother died in 2018. After her death she applied for engagement on compassionate ground. On August 10, 2020 the petitioner was engaged as an AWW at the Manikchak ICDS Project.

Mr. Chakraborty, learned counsel appearing on behalf of the petitioner submits that despite being a married lady the petitioner used to live with her

mother. Therefore, petitioner's prayer for engagement on compassionate ground was made at Manikchak ICDS Project. Since her engagement in August, 2020 the petitioner has discharged her duties regularly.

Petitioner's husband has been residing at Dakshin Dinajpur. She has an aged mother-in-law. Therefore, she has now prayed for transfer to Tapan ICDS Project at Dakshin Dinajpur.

Mr. Dhole, learned counsel appearing on behalf of the State respondents submits that as per the notification dated December 16, 2015 issued by the Joint Secretary, Department of Women and Child Development, Government of West Bengal had the marriage of the petitioner been registered, after the submission of her application form for the voluntary job of an AWW, the same could have been taken into consideration. However, admittedly in the present case, the marriage was solemnized prior to the date of such application and there is no provision of transfer in such cases. The voluntary service rendered by an AWW is not a transferable job.

He submits that the petitioner did not bring on record the factum of marriage in her application for compassionate engagement. The petitioner was also aware of the memo dated October 15, 2014 issued by the DCD, WD and SW. As per the said memorandum it

was evident that if a married daughter takes up employment in *died-in-harness* category, her residential address should be within the project, to avoid transfer appeals after joining.

Considering the rival submissions of the parties and materials placed on record, this Court is of the view that the prayer for transfer dated April 3, 2023 may be considered as per the extant rules/guidelines of the ICDS Project.

Such representation may be considered within eight weeks from the date by the Additional District Magistrate (Malda). While considering representation it has to be taken into account whether the petitioner disclosed the factum of marriage and the place of residence of her husband while applying for engagement as an AWW.

With the directions as above, **WPA 21397 of 2023 is disposed of.**

Since no affidavits have been directed to be exchanged in the writ petition, all the allegations contained therein are deemed not to have been admitted by the parties.

All parties are directed to act on a server copy of this order, duly downloaded from the official website of this Hon'ble Court.

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

(Lapita Banerji, J.)