

12.10.2023
SL No.54
Court No.8
(gc)

**MAT 1905 of 2023
CAN 1 of 2023**

**Manojit Halder
Vs.
The State of West Bengal & Ors.**

Mr. Sudip Ghosh Chowdhury,
Ms. Bina Baidya,
Ms. Shreyeta Mitra,
...for the Appellant.
Mrs. Koyeli Bhattacharyya,
...for the W.B.B.S.E.
Mr. Sourav Mitra,
...for the C.S.S.C.

1. The appellant filed an application for transfer on the ground of distance only. The said application required to be decided on the basis of the rules existing on the date of transfer. If the rule provides for transfer of a single teacher of the subject in the school, the said teacher is entitled to transfer and the school is required to make an appropriate arrangement to fill up the vacancy. The right conferred upon the teacher cannot be ignored. However, it is also to be kept in mind that the academic interest of the student should not suffer. The process of transfer can be delayed but it cannot be denied if the teacher fulfils the rules.

2. It appears that the learned Single Judge did not apply the said test in deciding the application for general transfer. It is not contended on behalf of the S.S.C that the application is not required to be considered on the basis of the rules existing on the date of transfer.
3. Under such circumstances, we set aside the order passed by the learned Single Judge and we direct the Head of the Institution to forward the application for transfer to the District Inspector of Schools (S.E.), Bankura who shall consider the application for transfer afresh on the basis of the rules existing on the date of application.
4. Accordingly, the appeal and the application stand disposed of.
5. However, there shall be no order as to costs.
6. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)