

13.12.2023
SI No.19
Court No.8
(gc)

**MAT 2111 of 2023
CAN 1 of 2023**

**Kobita Murmu
VS
The State of West Bengal & Ors.**

Mr. Shuvro Prokash Lahiri,
Ms. Tithi Mazumder,
Mr. Rajesh Naskar,
...for the Appellant.
Mr. Biswabrata Basu Mallick, A.G.P.,
...for the State.
Dr. Sutanu Kr. Patra,
Ms. Supriya Dubey
...for the W.B.C.S.S.C.

1. The affidavit of service filed on behalf of the appellant is kept with the record.
2. The appeal and the application are taken up together and disposed of by this common order.
3. The appellant filed an application for transfer prior to implementation of Utshasree Online Portal on the ground of distance between residence and school of the petitioner as well as medical ground.
4. It has been submitted by the learned advocate of the appellant that the transfer application was made under Rule 4(c) of the transfer rules which permits such transfer on special ground. It is further submitted that since the service tenure of the appellant was below five years at the time of

application the concerned authority did not consider the said transfer application.

5. However, the learned Single Bench dismissed the writ petition as none of the grounds appeared to be good grounds for general transfer.
6. That the grounds for transfer of the appellant are covered under Rule 4(c) of the transfer rules under general transfer on special grounds cannot be disputed and we have already observed in **MAT 782 of 2023 (Suvadip Ghorai versus State of West Bengal and Ors.)** that a special right has been conferred in favour of a teacher to apply for general transfer on special ground provided all or any of the conditions mentioned in Rule 4 are/is satisfied. In the event it is contented and held that period of five years is mandatory then it would make rule 4 nugatory as the immediate purpose for transfer would be defeated as the circumstances for general transfer on special ground required immediate intervention.
7. Under such circumstances, we set aside the order passed by the Learned Single Judge and direct the Commissioner of School Education to whom the transfer

application was made, to dispose of the application for transfer under the rules prevalent at the time of making of such application and thereby pass a reasoned order upon granting an opportunity of hearing to the petitioner.

8. In case the petitioner is found eligible for transfer under the relevant rules necessary steps shall be taken for considering transfer of the petitioner in accordance with law. The whole exercise shall be completed within six weeks from date of communication of this order.
9. In case the petitioner is found eligible under the law for transfer she shall be given options of suitable vacancies available.
10. Accordingly, the appeal and the application are disposed of.
11. However, there shall be no order as to costs.
12. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual under taking.

(Uday Kumar, J.)

(Soumen Sen, J.)