

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

WPA 162 of 2023

Rukhsar Parvin
Vs.
The State of West Bengal and Ors.

Mr. Arun Chowdhury
Ms. Pratusha Dutta Chowdhury
Mr. Bikash Singha
..for the petitioner

Mr. Hirak Barman
Mr. Momenur Rahman
...for the State

Item No. 09

Judgment on: 31.01.2023

BIBEK CHAUDHURI, J. : –

The petitioner was appointed as a Staff Nurse Grade-II on 28th July, 2022. She was posted at Coochbehar Medical College and Hospital. It is the case of the petitioner that she got 65.09 per cent in her recruitment examination. She hails from Darjeeling. On the other hand, the private respondent is also a Staff Nurse Grade-II and was appointed along with the petitioner at North Bengal Medical College and Hospital though

she is a resident of Coochbehar and she got lesser marks in the recruitment examination of Staff Nurse Grade-II. It is submitted by the learned advocate for the petitioner that as per guidelines for the Health Assistant (Female) vide Memo dated 7th July, 2015 published by the Health and Family Welfare Department, Government of West Bengal a newly recruitee would generally be placed near her home town in her first posting. The said guideline may be applied for Staff Nurse Grade-II appointed by the Health and Family Welfare Department, Government of West Bengal and applying such guidelines the petitioner's prayer may be favourably considered. In support of his contention the learned advocate for the petitioner refers to an unreported decision of this Court in **WPA 15391 of 2022 (Moumita Barman versus The State of West Bengal and Ors.)** decided on 24th August, 2022.

I have heard the learned advocate for the petitioner and the learned Additional Government Pleader. The judgment passed by a Co-ordinate Bench in **Moumita Barman** (Supra) is distinguishable because of the fact that the concerned department issued a notification stipulating the guidelines for

transfer of Health Assistant (Female). The said guideline clearly states that the Health Assistant (Female) would be placed in a hospital in her first posting near her home town. No such guideline is available with regard to Staff Nurse Grade-II. Factually it is discussed in the aforesaid judgment that for a successful candidate who hails from Coochbehar, Alipurduar, Jalpaiguri, Darjeeling or at the highest Uttar Dinajpur and Dakshin Dinajpur may be considered as nearer places from her home town.

In the instant case, the petitioner being a permanent resident of Darjeeling was transferred to Coochbehar and the private respondent being the permanent resident of Coochbehar was posted at North Bengal Medical College and Hospital in the district of Darjeeling. Therefore, both of them were posted near their home district. Thus, the ratio of **Moumita Barman** (Supra) is not applicable in the instant case.

In view of the above discussion, I cannot grant any relief to the petitioner as prayed for by her.

However, the petitioner and the private respondent, if both agree, can pray for mutual transfer to the hospitals near their home town and if such application is filed, the respondent No.2 shall consider the same sympathetically provided such provision of mutual transfer exists or in operation in the department of Health and Family Welfare.

With the above order, the instant writ petition is disposed of.

There shall be no order as to costs.

(Bibek Chaudhuri, J.)