

26.09.2023.
Item No. 5.
Court No. 1
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IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. No. 2066 of 2023

Sukla Dam
Versus
The State of West Bengal & Ors.

Mr. Ujjal Roy,
Mr. Debajit Kundu,
Sk. Abdur Rahim.

...For the petitioner.

Mr. Bikramaditya Ghosh.

....For the WBCSSC.

Mr. Subir Kumar Sah, AGP,
Mr. Momenur Rahman.

...For the State.

1. Affidavit-of-service filed in Court today be taken on record.
2. The petitioner is an Assistant Teacher working with Santidebi High School (H.S.), District – Alipurduar. She is physically challenged to the extent of 60% in the left eye. In addition thereto, she has also a serious gynecological disorder more fully described in her application received by the Director of School Education on 8th February, 2021 at Annexure – P/2 at page 23 of the writ petition.
3. The writ petition contains all her other documents relevant for the petitioner's application for transfer. Based on the same she sought transfer to a School close to her residence. She resides at Village –

Dewanhat Uttarpara, Post Office – Dewanhat, Police Station – Kotwali, District – Cooch Behar.

4. She could not initially upload her application online in view of the fact that he has not completed five years of service. The Utsashree Portal that was functional at that relevant point of time did not accept the petitioner's application. The petitioner, thereafter, wrote directly to the Commissioner of School Education as indicated hereinabove.

5. This Court is substantially satisfied with the medical condition of the petitioner. This Bench had in the case of **Kanika Malik – Vs. – The State of West Bengal & Ors. in W.P.A. No. 2842 of 2022** by an order dated 1st August, 2022 has held that the transfer of medical grounds cannot be subject to the five years service restriction in the Transfer Rules, 2015 of the State. The said position has been reiterated and upheld by the Division Bench of this Court in the case of **Suvadip Ghorai – Vs. – The State of West Bengal & Ors. on 24th August, 2023 in M.A.T. No. 782 of 2023**. Server copies of the aforesaid two orders cited by the Counsel for the petitioner are taken on record.

6. In the backdrop of the above, this Court directs the Chairman of the School Service Commission to examine the original Disability Certificate of the petitioner and be satisfied with regard thereto within a

period of two weeks from the date of receipt of a copy of this order.

7. Upon due verification, the Chairman of the School Service Commission shall meet the petitioner online or physically as may be mutually convenient preferably on 12th October, 2023 at 2:00 P.M. and offer any Schools subject to vacancy available. If the meeting is proposed to be held physically, sufficient advance notice may be given to the petitioner to enable her to make and reach the city of Calcutta.

8. It is expected that a School nearby to the petitioner's residence is allowed to her by School Service Commission.

9. Upon any recommendation being issued by the School Service Commission, the same may be forwarded offline to the West Bengal Board of Secondary Education for issuance of formal order of transfer.

10. With the aforesaid observations, the instant writ petition shall stand disposed of.

11. There will be no order as to costs.

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

(Rajasekhar Mantha, J.)

