

October 19, 2023
ARDR (6)

WPA 2419 of 2023

Sudipa Dutta
Vs.
The State of West Bengal & ors.

Adv. Sudip Ghosh Chowshury,
..for the petitioner.
Adv. Anirban Banerjee,
...for the respondent no.2.
Adv. Bikramaditya Ghosh,
...for the respondent no.3.
Adv. Subir Kumar Saha, AGP.
Adv. Bedashruti Bose,
...for the State.

The instant writ petition has been filed by the petitioner praying for a direction upon the respondents to set aside the remark made by WBCSSC on 6/10/2021 and consequential remark made by the D.I. on 14/12/2021 in general transfer application of the petitioner dated 15/09/2021 in the Utsashree portal with other consequential reliefs.

It is the contention of the petitioner that she joined in the post of Assistant Teacher in Education(H)/PG after selections in a selection process and issuance of appointment letter by the West Bengal Regional Service Commission (North Region) on 23/9/2009.

It is further contended that the distance of the place of work from her residence is about 410 kilometers from one side. Further the petitioner is suffering from serious ailments. Apart from that her husband is working elsewhere. The petitioner has a minor child and her husband is working elsewhere as

such she needs transfer near to her residence to provide care to her children and to avoid distance. For that reason she applied for general transfer under the scheme Utsashree portal incorporated on 25th August, 2021, but the said application was returned by the Head of Institution (HOI). Thereafter again the petitioner applied for general transfer in the portal on 15/9/2021. The said application was forwarded to the WBCSSC on 23/9/2021 for consideration but the said application was rejected only on sole ground that there is a single subject teacher in the said school. The HOI again forwarded the said application on 13/12/2021 with a remark “please accept this request”, but further on 14/12/2021 the D.I. of Schools rejected the same with an observation that “please follow the instructions as per memo dated 22/9/2021”. Having no other alternative, the writ petitioner filed this writ petition with the prayers as aforesaid.

Learned advocate for the petitioner submitted that the said application for general transfer ought not to be rejected only on the sole ground that there is only single teacher on the subject in the school.

He also referred a decision passed by the Division Bench Calcutta High Court in MAT No. 754 of 2022 on 25.7.2023 relying another judgment passed by the Hon’ble Supreme Court in WPA 16082 of 2021 (Satyajit Saha vs. The State of West Bengal & ors.) to support his

contention that the Commission cannot refuse transfer of a teacher on the ground that he is a single teacher in the subject post in the said school.

On the other hand, learned advocate for the respondents submit that there is no option but to reject the prayer of the transfer because the said school has single teacher in the post and if she would transfer then the general student will suffer and in alternative learned advocate on his usual fairness submitted necessary order may be passed so as seems fit and proper.

Heard learned advocates for the parties and on perusal of the order passed by the Hon'ble Division Bench of this Court in MAT 754 of 2022 it reveals the decision of the School Service Commission in refusing transfer of a teacher on the ground that he or she was a single teacher in the post cannot be a sole ground for rejection.

Under the above circumstances, the impugned order dated 14/12/2021 is hereby set aside and the respondent Head Of Institution is directed to forward the application of the petitioner for general transfer to the District Inspector of Schools (SE) Coochbehar who shall consider the application of the writ petitioner for transfer as prayed for afresh in accordance with law within eight weeks from the date of communication of this order.

With the above directions, the writ petition being WPA 2419 of 2023 is thus, disposed of.

There shall be, however, no order as to costs.

Since no affidavit exchanged between the parties the allegations contained in the writ petition are deemed not to have been admitted by the respondents.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Ajay Kumar Gupta, J.)