

17.11.2023
Sl. No.4
srm

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

W.P.A. No. 2460 of 2023

Ruma Das

Vs.

The State of West Bengal & Ors.

Mr. Anindya Bose,
Mr. Santanu Maji

....for the Petitioner.

Mr. Subir Kumar Saha,
Mr. Momenur Rahman

.....for State-respondents.

Mr. Amales Ray

...for the Respondent Nos.6 & 7.

The petitioner is an Assistant Teacher of Chanderkuthi 4th Plan Primary School, Cooch Behar. The petitioner joined the school on February 15, 2017. The appointment of the petitioner was duly approved vide memo dated February 25, 2021 issued by the Secretary, District Primary School Council, Cooch Behar.

On medical grounds and the long distance the petitioner has to travel, an application was filed for transfer through the Utshashree portal. The portal was operational at the relevant point of time. The matter was

forwarded to the concerned authorities and the Chief Medical Officer of Health, Cooch Behar, on the request of the Council, had made arrangements for medical examination of those teachers who had applied for transfer on medical grounds. Such system was based on a memo issued by the Principal Secretary, School Education Department, Government of West Bengal.

The petitioner contends that the medical examination was held. Thereafter the matter has not proceeded and the petitioner has not been informed about the fate of such medical examination and the application for transfer. It is further contended that the Utshashree portal has since been suspended. According to the petitioner, the pending applications which were filed during the subsistence of the portal, vide a notification of the government, should be considered on the basis of the guidelines and the procedures which were then being followed by the Council.

Mr. Ray, learned Advocate appearing on behalf of the Council submits that the West Bengal Primary Teachers Transfer Rules dated July 15, 2002 shall govern the transfer. It is further submitted that the Utshashree portal was a window which facilitated applications for transfer, but it was not a set of separate rules.

Mr. Rahman, learned Advocate for the State-respondents submits that as the Utshashree portal has been suspended no directions can be passed for consideration of the matter on the basis of the actions taken through the said portal.

Having heard learned Counsel for the respective parties, this Court is of the view that once the portal was created and applications for transfer of primary school teachers were allowed to be filed, the pending applications should be disposed of even if the said portal has been suspended. The petitioner had filed the application when the portal was functioning and the authorities had taken some steps on the basis of the petitioner's application.

This Court is of the view that the suspension of the portal would not operate as an embargo in consideration of the case of the petitioner, in accordance with the rules for transfer. The subsequent suspension of the portal, cannot be given retrospective effect. The petitioner's case for transfer should be considered in accordance with law by the respondent No.7 and the petitioner should be informed by a reasoned order about the fate of her prayer for transfer.

If the petitioner's case is found to be genuine and the authorities are satisfied on medical examination of the petitioner that she has a case for transfer on medical grounds, necessary order shall be issued. If there are reasons for not transferring the petitioner, such reasons shall be recorded in the order to be passed by the respondent No.7.

The entire exercise shall be completed within a period of two months from the date of communication of this order.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)