

MAT 166 of 2024
with
IA No. CAN 1 of 2024
**(Swagata Das Vs. The State of
West Bengal & Ors.)**

Mr. Sudip Ghosh Chowdhury
..... **For the appellant**

Mr. Shamim Ul Bari
Mr. Sayan Datta
.... **For the State**

Mr. Sunit Kumar Roy
..... **For the Central School
Service Commission**

Ms. Koyeli Bhattacharyya
..... **For the W.B.B.S.E.**

Affidavit-of-service filed by the appellant be kept on records.

The present appeal has been preferred challenging an order dated 16th January, 2024 passed by the learned single Judge in the writ petition being WPA 25670 of 2023. By the said order, the writ petitioner's prayer for transfer on special ground was turned down observing, *inter alia*, that at the time of appointment to the post of assistant teacher in the year 2018, as she opted for appointment in the present school, her prayer for transfer cannot be considered.

Mr. Ghosh Chowdhury, learned advocate appearing for the appellant submits that having exercised option at the time of appointment for appointment in the present school, the appellant cannot be debarred from submitting any application for transfer on special ground in terms of

the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as the said 2015 Rules).

He further submits that the appellant's daughter, who is presently aged about six years, is suffering from renal problems and in view thereof, her claim ought to have been considered in terms of the 2015 Rules.

Mr. Bari, learned advocate appearing for the State and Mr. Roy, learned advocate appearing for the Commission, however, submit that the appellant has not yet applied for transfer in the prescribed form, as required under the 2015 Rules and as such, question of consideration of her claim does not occasion.

The 2015 Rules entitles an assistant teacher to apply for transfer on the basis of the grounds enumerated in the same. In our opinion, as at the time of appointment the appellant opted for appointment in the present school, he cannot be denied from exercising her rights as conferred under the 2015 Rules.

In view thereof, the impugned order is set aside and the appellant would be at liberty to file an appropriate application for transfer in the prescribed form to the competent authority on *offline* mode as the *utsashree* portal is presently suspended.

Needless to observe, in the event appropriate application is submitted by the appellant, the same shall

be considered by the concerned authorities, in accordance with law.

With the above observations and directions, the appeal and the connected application are disposed of.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)