

19.03.2024

(S/L-02)

Ct.-18

(P. Jana)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

W.P.A. 1755 of 2024

Suptish Hatui

-Vs-

The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya,

Mr. Anindya Bhattacharya,

.... For the Petitioner.

Mr. Supriyo Chattopadhyay, Ld.AGP.,

Ms. Iti Dutta,

.... For the State.

Ms. Koyeli Bhattacharyya,

...For the W.B.B.S.E.

Mr. Debabrata Saha Roy,

Mr. Pingal Bhattacharyya,

Mr. Rajdeep Sinha,

.... For the added respondent.

The petitioner is an Assistant Teacher at Harina High School, District: Paschim Midnapore of the subject "Sanskrit (Pass)". The respondent no. 9 is an Assistant Teacher at Kalmapukuria B S C High School (HS), P.S.: Nayagram, District: Jhargram of the same subject.

The prayer of the petitioner and the respondent no. 9 for mutual transfer was allowed vide Memo No: WBBSE/App./MT/02889 dated February 08, 2021 issued by the West Bengal Board of Secondary Education.

The petitioner thereafter submitted a representation before the President of the Board praying withdrawal of the said order of mutual transfer but the same was not attended, however due to non-issuance of release order by the authority of

the Harina High School, the order of transfer could not be given effect to.

The respondent no. 9, under such circumstances filed a writ petition being WPA 14605 of 2021 which was disposed of vide order dated October 09, 2023 directing the Board to consider the representation of the petitioner praying to give effect to the order of mutual transfer.

In pursuance to the said direction, the President of Board has passed the impugned order dated January 05, 2024. The relevant portion of the impugned order is quoted below:-

“Taking into consideration the above stated facts and circumstances of the case, I, President, Ad-hoc Committee of Board, am pleased to dispose of the matter (W.P.A. Number 14605 of 2021, Aparna Das -vs.- The State of West Bengal and others) by directing the Appointment Cell of the WBBSE to issue fresh order revalidating the earlier order bearing Memo No. WBBSE/App./MT/02889 dated, 08/02/2021, following all the due procedure. This transfer order will be in favour of the petitioner, Smt. Aparna Das, Assistant Teacher. All concerned parties should be informed and copy of the transfer order shall be sent to them for compliance at their end.

The District Inspector of Schools (SE), West Medinipur, the District Inspector of Schools (SE), Jhargram, Headmaster of Kalmapukuria B.S.C. High School, District-Jhargram, Sri Suptish Hatui, Assistant Teacher of Harina High School, District-West Medinipur, and the Headmaster of Harina High School, District- West Medinipur, shall comply with the order issued from WBBSE,

Appointment Cell mandatorily and expeditiously. A compliance report is to be submitted respectively by all above to Secretary, WBBSE, in this regard by six weeks time.

Further, the Disciplinary Authority Unit of the Board is also directed to take steps to initiate disciplinary proceedings against Sri Suptish Hatui, presently Assistant Teacher of a Harina High School, District – West Medinipur, and the Headmaster of Harina High School, District- West Medinipur, in accordance with the due process of law/rules”.

The order of mutual transfer was issued on the mutual consent of the petitioner and the respondent no. 9. The petitioner cannot withdraw such consent unilaterally to the detriment of the respondent no. 9 and the authority of the Harina High School cannot facilitate such action of the petitioner by not issuing the release order.

The President of the Managing Committee of Harina High School, Mr. Biswajit Bhramha, the respondent no. 7 herein, in compliance with the direction passed by this Court is personally present, he informs this Court that the necessary release order is ready. The respondent no. 7 is directed to issue the said release order immediately.

The petitioner, the respondent no. 9 and other concerned authorities shall act to implement the direction of the order impugned, however the petitioner is granted liberty to submit a representation before the President of the Board, explaining the facts and circumstances leading to non-compliance of the

earlier order of transfer, similar liberty is granted to the Headmaster of the Harina High School to submit a representation before the President of the Board explaining the reason for not issuing the order releasing the petitioner to comply the order of transfer.

The President of the Board, if is satisfied with the circumstances/explanation so offered, shall drop the proposed disciplinary action against the petitioner and the said Headmaster.

The personal appearance of the respondent no. 7 is dispensed with.

WPA 1755 of 2024 is **disposed of** with the above terms without any order as to costs.

Parties to act on the server of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)