

16 04.01.2024

Ct-08

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FMA 652 of 2022

with

I.A No. CAN 2 of 2022

Smt. Sulata Bhandari (Mondal)

Vs.

The State of West Bengal & Ors.

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey

... For the WBCSSC

Mr. Jayanta Samanta

Mr. Kushal Biswas

... For the State & School

Mr. Samim Ahammed

Ms. Ambiya Khatun

... For the Respondent no. 5

1. The appellant is not represented nor any accommodation is prayed for on behalf of the appellant even in the second call. The appellant was also not represented on the earlier occasion.

2. On the last occasion, we have heard extensively the learned counsel representing the State, West Bengal Central School Service Commission and the respondent no. 5. No affidavit-in-reply has been filed by the appellant as yet. In terms of our earlier order, we propose to hear the appeal and dispose of this matter on the affidavits filed by the respondents and the available records.

3. The appeal is arising out of an order dated 27th November, 2020 passed in a writ petition. The grievance of the petitioner was that the writ petitioner was eligible for general transfer in terms

of Rule of West Bengal Central School Service Commission, namely, the West Bengal School Service Commission (General Transfer on Special Grounds & Re-allocation) Rules, 2015.

4. Learned Single Judge dismissed the writ petition on the ground that the petitioner/appellant is not entitled for such transfer on special ground unless the petitioner completes 5 years of satisfactory service as has been mentioned in Rule 3 of the aforesaid Rules. Learned Single Judge was also of the view that the petitioner was neither confirmed nor she has completed five years satisfactory service. During the pendency of the appeal, we directed the respondent no. 5 being the Teacher-in-Charge of the School to file an affidavit. In the affidavit he has stated that he could not find the entire records from the available records. It appears that there are few resolutions of the Managing Committee from which it would appear that the appellant was recommended by the West Bengal Central School Service Commission on 23rd February, 1999, following which the then Teacher-in-Charge issued appointment letter on 1st March, 1999. The appellant joined in the school on 12th March, 1999. The attendance register of the school would show that the petitioner had discharged her

Duties as an Assistant Teacher of the school till 5th May, 1999. The records further reveal that even during this period, she was not regular in her service in as much as she had attended school on the following dates, 12.03.1999 to 20.03.1999 and 23.03.1999, 06.4.1999 to 08.4.1999, 10.4.1999, 12.4.1999 and 13.4.1999, 28.4.1999, 04.5.1999 and 05.5.1999. The copy of the attendance register has been disclosed with the affidavit. In terms of resolution dated 19th March, 2022 District Inspector of Schools by a letter dated 21st March, 2022 was informed about the missing records. The petitioner has also stated that 'no objection certificate' was issued by the erstwhile head of the institution. However, the District Inspector of Schools appears to have not signed the said 'no objection'. In any event no records available with the school to demonstrate that the service of the appellant was approved by the concerned authority. However, it can be ascertained from the records that the petitioner has not discharged five years service in the school, which is prerequisite for being eligible to seek transfer from one school to other.

5. In view of uncontroverted statements made, we are of the view that the appellant is not entitled to the said relief.

6. In view of the above, the appeal being FMA 652 of 2022 stands dismissed.

7. In view of dismissal of the appeal, nothing remains to be decided in the application being CAN 2 of 2022 and the same is accordingly dismissed.

8. However, there shall be no order as to costs.

9. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

