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07.05.2024
Ct. No. 11
Jayanta

WP.ST 48 of 2024

Ritushree Paul
Vs.
State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury
Mr. Shreyeta Mitra
.....For the Petitioner.

Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. Sangeeta Roy
.....For the State.

Affidavit-of-service filed by the petitioner be kept on record.

The present writ petition has been preferred challenging the order dated 20th February, 2024 passed by the learned Tribunal in O. A. 32 of 2024.

By the order dated 20th February, 2024, learned Tribunal refused to exercise its discretion in favour of the petitioner with following observation:

“... The prayer in this application is for a direction to the respondent authorities to transfer the applicant from her present place of work in South 24 Paraganas to Berhampore, Murshidabad (home town). Submission is that due to family problems, the applicant had prayed before the Deputy Director of School Education for such transfer.

It is the opinion of the Tribunal that postings and transfers are incidental to a Government employee's service life. It is not the mandate of this Tribunal to interfere in the routine

administrative matters of the respondents' offices. Therefore, it would not be appropriate to pass any orders in this matter."

The facts, in brief, are that the petitioner joined the New Integrated Government Schools under BRGF (Backward Regions Grant Fund) (in short, said School), Block- Pathar Pratima, Dakshin Shibpur, South 24 Parganas as an Assistant Mistress on 20.03.2019.

The petitioner made an application dated 31st July, 2022 before the respondent no. 5 seeking his transfer in Habibpur NIGS, Malda or Berhampore, NIGS, Murshidabad but despite receipt of such application, no decision was taken thereon.

Aggrieved by such inaction on the part of the concerned respondent, the petitioner moved an original application being WP No. 34 of 2024, which was disposed of by the order impugned in the writ petition.

Mr. Chowdhury, learned advocate appearing for the petitioner submits that the petitioner is a mother of a newly born baby who for having certain physical problems needs special care and her husband is an assistant teacher of a government-aided recognized school of Murshidabad. The petitioner is forced to stay along with her child in her place of work which is almost 300 kms. away from her home town and hence, the petitioner was constrained to apply for her transfer but her application was left unattended. He asserts that the learned Tribunal glossed over these issues and no findings were returned on the same.

Mr. Mukherjee, learned Additional Government Pleader raised vehemently opposes such contention of the petitioner.

He submits that the petitioner was appointed in a Government School under a particular scheme and it is not known whether any such School is functioning under that scheme in the Districts of Malda and/or Murshidabad.

Heard the learned advocates appearing for the respective parties and perused the materials on records.

Needless to observe that the Tribunal was established to deal with the matters relating to recruitment and conditions of service of employees of the State. Needless to state that transfer is an incident of service. Therefore, we cannot endorse the view expressed by the learned Tribunal that a posting or transfer of a teacher of a Government School falls outside the purview of the jurisdiction of the learned Tribunal. We are of the view that by passing the order impugned, the Tribunal has failed to exercise the jurisdiction vested in it.

In such conspectus, the order dated 20.02.2014 passed by the learned Tribunal is set aside. The writ petition is disposed of by granting liberty to the petitioner to file a comprehensive representation before the respondent no. 2 ventilating all her grievances and seeking appropriate relief therein within a period of two weeks from date.

If such representation is filed within the time, as specified, the respondent no. 2 shall consider the same upon granting an opportunity of hearing to the petitioner and pass a reasoned order.

Needless to observe in the event the petitioner's claim deserves acceptance, necessary follow up steps shall be taken by the respondents.

The above exercise shall be concluded within a period of four weeks from the date of receipt of a copy of this order.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

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