

30.09.2024
sayandeep
Sl. No. 13
Ct. No. 08

MAT 534 of 2024
With
CAN 1 of 2024

Mrinal Kanti Prodhan
-Versus
The State of West Bengal & ors.

Mr. Himadri Sikhar Chakraborty	
Ms. Priyanka Chandra	 for the appellant
Mr. Arijit Sarkar	
Mr. Dipankar Dasgupta	 for the State
Mr. Sunit Kr. Roy	for the SSC
Ms. Koyeli Bhattacharyya	
Mr. Bibek Dutta	... for the WBBSE

An application for transfer on the ground of distance is kept in suspended animation by the authorities which constrained the writ petitioner/appellant to approach this Court under Article 226 of the Constitution of India. The cause of action for filing the said writ petition is founded upon inaction on the part of the competent authority to take a decision on the basis of an application for transfer.

The Trial Court proceeded to dismiss the writ petition solely on the premise that the ground for transfer is not convincing as the writ petitioner/appellant was drawing a house rent allowance.

The house rent allowance being ingrained into a service condition cannot act as a deterrent in considering an application for transfer necessitated by a compelling circumstance. Furthermore, the writ Court should not usurp the power of the authorities and take an administrative decision and exercise of such power should be eschewed. The writ Court decides the action

of the authorities in relation to the process by which such decision was arrived and not concerned with the decision taken by the authorities. The action of the authorities are tested on the anvil of the legal parameters and any transgression or the violation would entail the decision liable to be struck down. The Court should avoid in taking a decision which the administrative authority is required to take more particularly when no step has been taken and, therefore, we feel that the order impugned cannot be sustained.

Since relegating the appellant to the writ Court would further delay the disposal as we found that the only relief which the writ petitioner/appellant is entitled is the direction upon the authorities to take a conscious decision on his application for transfer, we, therefore, set aside the impugned order.

The competent authority is directed to consider the application for transfer in the light of the prevalent Government orders and the statutory Rules framed in this regard within two months from the date of the communication of this order and communicate the same to the appellant within a week therefrom.

Accordingly, the appeal and application are disposed of.

(Harish Tandon, J.)

(Partha Sarathi Sen, J.)