

10.04.2024
Sl. No.72
Suman
Ct.No.238

WPA 8610 of 2024

Hafizul Molla
Vs.
The State of West Bengal and Ors.

Mr. Shuvro Prokash Lahiri
Mr. Sujit Halder
..for the petitioner

Mr. Swapan Kumar Dutta
Mr. Rajat Dutta
..for the State

The case of the petitioner for transfer was considered by the Director of Public Instruction, West Bengal pursuant to an order passed by this Court in earlier round of litigation. By an order dated November 10, 2023, the Director of Public Instruction, West Bengal declined to accept the prayer.

The petitioner is an Assistant Professor of Mathematics at Manbhum Mahavidyalaya, Purulia.

The relevant part of the order impugned reads as follows:-

“As per the record, there is only one (1) Assistant professor of Mathematics at Manbhum Mahavidyalaya, Purulia. There is no other teacher in Mathematics in this college. There is no other category of teacher like State Aided College Teacher (SACT) to take classes for the subject Mathematics. Mathematics is being taught at Manbhum Mahavidyalaya both in Hons and Programme courses.

It's to be mentioned that as per Notification dated 31.10.17 the West Bengal Colleges (Transfer of Employees) Rules, 2017 vide para 2 "Transfer under these rules cannot be claimed as a matter of right. The grant of transfer is subject to the larger interest of maintaining a healthy and efficient teaching system.

Rule 2 of the West Bengal Colleges (Transfer of Employees) Rules, 2017 lays down some guiding Principles to be followed by the transferring authorities in granting transfer of teacher from one College to another. It is stated therein that in particular the factors such as availability of vacant post in the relevant subject, teacher-pupil ratio in the institute concerned, demand for a particular subject, issues of larger interest such as need to expand higher education in remote and backward areas and the requirement of the reservation roster etc. are to be taken into consideration.

So, considering the fact that at present there is only one Assistant Professor in the Department of Mathematics in Manbhum Mahavidyalaya, Purulia to teach Mathematics for the students of both Hons and programme courses, the Education Directorate is not in a position to consider the prayer of the petitioner to his desired colleges opted for transfer from Manbhum Mahavidyalaya, Purulia because the teaching system will be badly affected and the students would be the worst sufferers in that remote rural areas."

Learned advocate appearing for the petitioner submits the distance between the residence of the petitioner and his working place is about 230 kilometres. The petitioner is suffering from various ailments and, therefore, the case of the petitioner should have been considered regardless of the fact that the petitioner is the only Mathematics teacher at the college.

He further submits that in the event of transfer of the petitioner, the college will not suffer since the college itself has granted "No Objection" for the transfer.

I am of the view that the petitioner has not been able to make out any case justifying his transfer. The reasons as provided in the order impugned cannot be interfered with.

The petitioner has been given appointment based on his position in the merit list. If the long distance between his residence and the working place is considered to be a valid ground for transfer then all appointments of teaching staff across various colleges under the State has to be re-arranged. The ground of illness of the petitioner, though has been urged by the learned advocate for the petitioner, is not indicated in the application of the petitioner for transfer. The application only indicates the old age and different ailments of his parents.

I am of the view that in absence of any special ground, by way of an exception, the petitioner cannot be transferred, particularly when there is no other teacher in Mathematics at the college and there is no other category of teachers like State Aided College Teachers (SACT) to take Mathematics classes.

Accordingly, I am not inclined to interfere with the impugned order dated November 10, 2023.

Accordingly, **WPA 8610 of 2024** is dismissed.

Needless to mention that the order impugned has been passed keeping in mind the present fact situation of the petitioner. If there is any exigency justifying transfer, the petitioner will be at liberty to apply afresh seeking his transfer.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)