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14.11.2024
Ct. No. 18
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W.P.A. 8379 of 2023

**Parijat Paul
Vs.
The State of West Bengal & Ors.**

Mr. Sudip Ghosh Chowdhury
Ms. Shreyeta Mitra
...for the petitioner
Dr. Sutanu Kr. Patra
...for the WBCSSC

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
Ms. Keya Panja
..for the WBBSE

Mr. Malay Krishna De
Mr. Arunava Maiti
..for the State

Matter is heard at length in presence of the learned advocates representing the parties.

Issue involved in this writ petition relates to transfer of petitioner on the ground of distance based on an application made on Utsashree Portal on 6th September, 2022. Grievance of the petitioner is while forwarding the transfer application of the petitioner by the school authority where petitioner is presently working to the District Inspector of Schools (SE) Barasat, North 24 Parganas being respondent no. 4 certain observations were made by the school authority to the extent that petitioner is the only teacher in English in the school and the distance in between the residence of the petitioner and the school is 24 kilometers. It is submitted

by the learned advocate representing the petitioner that if these observations are relied upon by the respondent no. 4 and subsequently by the concerned authority of the West Bengal Central School Service Commission while taking decision on transfer application of the petitioner same may act as fetter which would thwart the attempt of the petitioner to get transferred in accordance with law.

Having considered the submissions made on behalf of the parties and taking note of the objection raised on behalf of the school authority as it appears from a document at page 19 this Court is required to consider whether the objections are rightly raised or not. It needs to be further recorded that the school authority has been granted opportunity to file a report in the form of affidavit and in paragraph 6 of the said affidavit in addition to two grounds of objections that is distance ground and petitioner is single teacher another objection has been raised that the pupil-teacher ratio does not permit transfer of the petitioner.

Contention of the school authority that petitioner is a single teacher in English in the school is refuted by the petitioner by enclosing staff pattern of the school wherefrom it appears that in addition to the petitioner two other assistant teachers in English are working in the school. Therefore, the objection of the school

authority that petitioner is a single teacher does not survive.

Another objection raised on behalf of the school authority is distance in between the present school of the petitioner and his place of residence is 24 kilometers. Therefore, petitioner is ineligible to be transferred but on perusal of Rule 3(2) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 it is found that the distance which is contemplated is not the distance in between the present school of the petitioner and his place of residence but it is a distance in between the present school of the petitioner and the school where petitioner is seeking transfer. It is provided in Rule 3(2) that if such distance in between the two schools is 25 kilometers or less, in that event, petitioner is not entitled to be transferred. Since in the present case it is not demonstrated before this Court that the school where petitioner is seeking transfer is within the distance of 25 kilometers from his present school, second objection relating to distance also does not survive.

However, while filing affidavit school authority has raised objection on the ground of pupil-teacher ratio of the school. It is also found in terms of amended rule as contained in notification dated 8th September, 2021 that pupil-teacher ratio is one of the criteria which needs to be taken into consideration while transferring the

petitioner as it is provided under Rule 6(2)(c). However, what should be the pupil-teacher ratio in the school that has not been stipulated in the amended Rule 6(2)(c). Therefore, it is perceived that concerned respondent authorities would find it difficult to come to a conclusion whether pupil-teacher ratio justifies transfer of the petitioner from one school to another. Furthermore, this objection was not raised by the school authority while forwarding the transfer application of the petitioner to the respondent no. 4 through portal on 14th October, 2022. Therefore, it appears that such objection raised on behalf of the school authority is afterthought.

Taking note of the aforesaid fact situation the respondent no. 4 is directed to forward the transfer application of the petitioner by fortnight from the date of communication of this order to the West Bengal Central School Service Commission in offline mode for taking final decision. On receipt of such transfer application Chairman, West Bengal Central School Service Commission being respondent no. 3 is directed to take decision in accordance with law within a period of 6 (six) weeks thereafter and the decision to be taken by the Chairman shall be communicated to the petitioner by 1 (one) week thereafter.

With the aforesaid directions the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)