

13.05.2024
Item No.09
Court No.11
Avijit Mitra

**MAT 607 of 2024
with
IA No. CAN 1 of 2024**

**Rekharani Mahato
- Versus -
The State of West Bengal & ors.**

Mr. Rudranil De,
Mr. Subhronil Ghosh,
Mr. Anirban Das
...for the appellant

Mr. Jahar Datta,
Mr. Avik Mitra
....for the State respondents

Mr. Ratul Biswas,
Mr. Kaushik Chowdhury
...for the WBBPE

Mr. Bhaskar Prasad Vaisya,
Mr. Nilay Baran Mandal
...for the D.P.S.C. Purulia

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

Leave is granted to the learned advocate-on-record of the appellant to amend the cause title of the memorandum of appeal and its connected application.

This appeal is directed against the order dated 28th February, 2024 passed by the learned Single Judge in WPA 25980 of 2023. By the order dated 28th February, 2024, the writ petition was dismissed.

Sans unnecessary details, the facts leading to this appeal are that the appellant is an Assistant Teacher of Pakritala Primary School under Alipurduar District Primary School Council. Her matrimonial house is located at Purulia.

The distance between her in laws' house and the school is about 800 kms and as such, to attend the school, the appellant is constrained to stay at her place of work i.e. at Alipurduar with her daughter who is of 7 years now.

The petitioner's husband is an assistant teacher of a primary school under Purulia District Primary School Council, Purulia. He stays in Purulia along with their son and his old aged widow mother. Such separate living of the couple is causing serious inconvenience in their family life and as such, the appellant by making an application implored the President of West Bengal Board of Primary Education to transfer her to any school nearer to her matrimonial house under Purulia District Primary School Council but despite receipt of such application, the same was left unattended. As such, the appellant was constrained to prefer a writ petition being WPA 25980 of 2023, which was dismissed by the order impugned in the appeal.

Mr. De, learned advocate appearing for the appellant seeks to contend that the writ petition has been dismissed on an erroneous observation that to attend the school, the appellant is travelling 800 kms. in a day. He next contends that in her application, the appellant on unequivocal terms stated that her place of work was 800 kms. away from her matrimonial house and she is being forced to stay at her place of work i.e. at Alipurduar.

He argues that as the order impugned in the appeal was passed on the basis of an erroneous observation, the same cannot be sustained.

Per contra, Mr. Biswas, learned advocate appearing for the Council submits that the rules governing the field does not permit such transfer.

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

A bare perusal of the appellant's application would reveal that that the appellant meant to say that she is being forced to stay at her place of work which is 800 kms. away from her residence.

Mr. De next submits that the appellant would be satisfied if the issue is relegated to the concerned respondent with a direction to consider and decide the same sympathetically.

In view such submission, the appeal and its connected application are disposed of granting liberty to the appellant to submit a fresh representation annexing all the documents in support of contention to the Secretary, West Bengal Board of Primary Education within a period of two weeks. If such representation is made within the time, as specified, the Secretary shall consider the same in accordance with law and communicate the decision to the appellant within a period of four weeks from the date of receipt of the representation.

Needless to observe that in the event, her claim deserves acceptance, necessary follow up steps shall be taken by the respondents forthwith.

With the above observations and directions, the appeal is disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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