

21-05-2024
ct no. 13
Sl. 35
sp

WPA 9759 of 2024
Madhusree Das
-Versus-

The State of West Bengal & Ors.

Mr. Saibal Acharya,
Mr. Pradip Paul,
Mr. Arka Bhattacharya

..for the petitioner

Mr. Shamim ul Bari,
Mr. Sujoy Ash

...for the State

Mr. Amalesh Ray,
Ms. Mousumi Bhowal,
Mr. Aman Gupta,
Mr. Ishan Bhattacharya

...for the DPSC, Cooch Behar

Mr. Ratul Biswas,
Mr. Kaushik Chowdhury

..for the WBBPE

1. The petitioner seeks inter-district transfer on the grounds of distance from Cooch Behar to Egra, Purba Medinipur.
2. It is also submitted that the petitioner is unmarried and feels insecure to work in Cooch Behar. Admittedly, the petitioner has not completed 5 years of service after her posting.
3. Learned Counsel for the petitioner submits that the amendment Rule 2002 effected by the notification dated 17th September, 2021 to the West Bengal Primary Education (Transfer of

Teachers including Head Teacher) Rules, 2002, read with Rule 1 (2) thereof should indicate that the 5 years bar does not apply to intra-district transfer of primary teachers.

4. This Court has carefully considered the 2002 rules, its amendment in question and the Act of 1973 and has heard counsel for the parties.
5. It appears that firstly, the West Bengal Board of Primary Education Act, 1973 and Rule 19 (1) (k) authorizes the Board to transfer any teacher within the jurisdiction of one DPSC to another. This is the general power of transfer which is conferred exclusively on the Board. Such transfer is a power given to the Board to transfer any teacher on its own motion from one DPSC to another, for administrative exigency. The said Rule, therefore, cannot be invoked by the petitioners.
6. Rule 8 of the West Bengal Primary Education (Transfer of Teachers including Head Teacher) Rules, 2002 at Rule 8 permit inter-council transfer on application by teacher.
7. By the amendment dated 13th September, 2021 referred to hereinabove, Rule 8 has been substituted to the effect that the Rules applicable to intra-council transfers under Clause k of Rule 19A of the Act (2002) Rules,

shall mutatis mutandis apply to intra council transfer sought by the teachers.

8. Rule 6 of the 2002 Rules prescribe that a teacher cannot seek transfer before completion of 5 years after a posting in a school. Such posting can be both the first one or one upon transfer.
9. In view of the position indicated hereinabove, this Court is of the unequivocal view that whether transfer is applied intra or inter-district, the 5 years bar and other bars like before completion of 5 years after obtaining transfer etc. continue to apply.
10. The argument of Mr. Acharya, learned counsel for the petitioner that the rules as above applied only to online transfer also cannot be accepted. Admittedly, the portal for online transfer is closed since October, 2023.
11. This Court is of the view that the online is a mere facility for ease of application and for consideration of the same by the respondents. The rules as interpreted above cover both the offline and online application.
12. In view of the matter, no relief can be granted to the petitioner.
13. Hence, WPA 9759 of 2024 shall stand dismissed.
14. There shall be no order as to costs.

15. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)