

11.06.2024
Court No. 18
Item No. 44
(**Suvendu**)

WPA 8874 of 2022

Amrita Pramanik
-Versus-
The State of West Bengal & Ors.

Mr. Anjan Bhattacharya
..... for the petitioner

Mr. Bhaskar Prasad Vaisya, Ld. AGP
Mr. Arindam Chattopadhyay
.....for the State respondents

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
...for the West Bengal Central
Service Commission

The petitioner is an Assistant Teacher in a Government aided High School seeking transfer on special ground as contemplated under Rule 4 of the West Bengal School Service Commission (General Transfer, Transfer On Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as “said Rules of 2015”).

Mr. Anjan Bhattacharya, learned advocate representing the petitioner submits that the daughter of the petitioner is suffering from 75% locomotor disability based on a document, which is at page 19 of the writ petition, wherein the concerned authority of North 24 Parganas District Hospital, Barasat certified that the

petitioner's daughter, Adrija Mondal, is suffering from 75% locomotor disability.

It has been contended on behalf of the petitioner that notwithstanding the bar of five years of service as postulated under Rule 3(1) of the said Rules of 2015 there is no impediment in applying Rule 4 when an application is made by a teacher for general transfer on special ground. In support of such contention reliance has been placed on the order of the Hon'ble Division Bench dated 24th August, 2023 passed on an intra-court appeal being **MAT 782 of 2023 (Suvadip Ghorai -Vs- State of West Bengal & Ors.)**. Accordingly, it has been prayed for on behalf of the petitioner that a direction may be passed considering the plight of the petitioner since daughter of the petitioner is suffering from 75% locomotor disability.

The West Bengal Central Service Commission and the State respondents are represented by Dr. Patra, learned advocate and Mr. Vaisya, learned Additional Government Pleader, respectively and both have opposed the prayer of the petitioner chiefly on the ground of embargo based on requirement of five years satisfactory service as postulated under Rule 3(1) of the said Rules of 2015. It has also been submitted that the petitioner was appointed on

21st November, 2019 as an approved Assistant Teacher. Therefore, as on date she has not completed five years continuous service which will operate as an embargo in the matter of consideration of her prayer for transfer on special ground under Rule 4(1).

Having considered the submissions made on behalf of the parties and taking note of the disability certificate which is at page 19 of this writ petition, this Court is not required to examine the issue in depth in view of the ratio decided by the Hon'ble Division Bench in **Suvadip Ghorai** (supra). The identical issue was under consideration before the Hon'ble Division Bench and it has been succinctly decided therein that Rule 4, which contains provisions for general transfer on special ground, is a standalone provision which needs to be considered independently based on satisfaction to be expressed by the authority with regard to fulfillment of conditions as narrated under the said Rule 4 and which is not dependant upon fulfillment of conditions of completion of five years continuous satisfactory service as contemplated under Rule 3(1).

In view of the ratio decided by the Hon'ble Division Bench in **Suvadip Ghorai** (supra) and in the backdrop of facts that the petitioner has

applied for general transfer on special ground under Rule 4 of the said Rules of 2015 in consideration of her daughter who is suffering from locomotor disability, the writ petition is disposed of by directing the Commissioner of School Education, West Bengal being the respondent no. 2 to decide the prayer of the petitioner for transfer on special ground taking note of the observations made by this Court above and in the light of the order of the Hon'ble Division Bench passed in **Suvadip Ghorai** (supra). The respondent no. 2 shall take a reasoned decision within a period of eight weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or her representative. The petitioner shall be at liberty to rely upon the relevant judgment and order of the Court at the time of consideration of her application seeking transfer on special ground.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)

