

ML 53
08.07.2024
Ct. No. 18
adeb

W.P.A. 9821 of 2022

**Nupur Maji
Vs.
The State of West Bengal & Ors.**

Mr. Shamimul Bari
Ms. Asmita Mitra
...for the petitioner

Mr. Bhaskar Prasad Vaisya
...for the State

Mr. Sourav Mitra
...for the WBCSSC

Affidavits of service filed on behalf of the petitioner are taken on record.

In spite of service of notice upon the school authority of Pipullyan Dhirendra Nath Koley Vidyapith (HS), District-Howrah the said school authority is not represented today.

However, the writ petition is heard in presence of the learned advocates representing the petitioner, State-respondents and the West Bengal Central School Service Commission.

The grievance of the petitioner is primarily against the school authority in not forwarding the transfer application of the petitioner dated 17th February, 2022 to higher authorities. It has been submitted by the learned advocate for the petitioner that the petitioner made an

application for transfer on medical ground for permitting her to be transferred to a school which is nearby to her place of residence. Attention of this Court has been drawn to page 53 of the writ petition wherefrom it appears that the aforesaid school authority did not process the transfer application of the petitioner and refused to forward the same to the concerned District Inspector of Schools since petitioner is a single teacher in the subject.

The learned advocates representing the State-respondents and the Commission have been posed with a query whether in case of transfer on medical ground, transfer application of a teacher can be rejected since the said teacher is a single teacher in the subject. In order to answer such query attention of this Court has been drawn to notification dated 8th September, 2021 whereby amendment has been made to the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015. Amended Rule 6(2)(c) contemplates if on transfer of the teacher resultant vacancy of the school in particular subject becomes zero in that event the school authority shall not forward the application. At the same time it is also provided under amended Rule 6(2)(e) that in case of transfer application made under Rule 4(a) the provisions contained under amended Rule 4(2)(c) shall be dispensed with. However, it has been provided under proviso to the

amended Rule 6(2)(e) that in case of transfer of the teacher if the resultant vacancy in the particular subject in the school becomes zero necessary steps shall be taken immediately by the authority for filling up such vacancy.

Having considered the submissions made on behalf of the parties represented before this Court and taking note of the provisions as contained in the notification dated 8th September, 2021 it appears that notwithstanding the petitioner being single teacher in the subject in the school her transfer application on medical ground cannot be stalled on the ground of single teacher in view of dispensation of amended Rule 6(2)(c) as contemplated under amended Rule 6(2)(e) while processing transfer application made in terms of Rule 4(a). However, it has been rightly pointed out on behalf of the respondent authorities that the procedure of medical verification as contemplated under the norms needs to be complied with.

In view of aforesaid backdrop of facts and the relevant statutory provisions the school authority being respondent nos. 7 and 8 are directed to make medical verification through the concerned BMOH in order to find out whether such transfer application needs consideration or not. If the medical verification justifies transfer application of the petitioner in that event school authority is directed to forward the application of the

petitioner to the concerned District Inspector of Schools (SE), Howrah by 4 (four) weeks from the date of communication of this order. If the concerned District Inspector of Schools receives the transfer application of the petitioner in that event the said District Inspector of Schools is directed to obtain the report of further medical verification and if the result of such medical verification comes in favour of the petitioner the transfer application of the petitioner shall be forwarded to the Chairman, West Bengal Central School Service Commission for taking final decision. In the event the Chairman of the Commission receives transfer application of the petitioner from the concerned District Inspector of Schools he shall decide on such application by fortnight thereafter.

If transfer application of the petitioner is allowed by the authorities thereby transferring the petitioner to another school in that event the concerned respondent authorities are directed to take immediate steps for filling up the resultant vacancy which is to be created for transferring of the petitioner to another school as contemplated under the proviso to amended Rule 6(2)(e).

With the aforesaid directions and observations the writ petition stands disposed of.

However, 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.)