

09.07.2024
Sl. No.68(ML)
tkm

W.P.A. 11598 of 2022
(Mitali Mandal vs. State of West Bengal & Ors.)

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

Dr. Sutanu Kr. Patra
Ms. Supriya Dubey
... .. for WBCSSC

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. Petitioner made an application dated 11th August 2021 seeking transfer on medical grounds due to ailment of her daughter. Attention has been drawn to page 16 of the writ petition wherefrom it appears that the application of the petitioner was not allowed by the concerned authority of the West Bengal Central School Service Commission on the ground that the petitioner was found to a single teacher in the subject in the school. Such decision of the Commission not to entertain the application of the petitioner for transfer on medical ground is under challenge in this writ petition.
3. In support of such case made out in this writ petition Mr. Bhattacharya, learned advocate representing the petitioner has relied upon the relevant provisions of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 as

amended vide notification dated 8th September 2021.

4. Dr. Patra, learned advocate represents the Commission and has made submission on applicability of the provisions as contained in the amended West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015.
5. Having considered the submissions made on behalf of the parties this court is required to consider amended Rule 6 as contained in the notification dated 8th September 2021 in order to adjudicate the issue involved in this writ petition. Amended Rule 6(2)(c) provides if on transfer the number of teacher in a particular subject is brought down to zero, the school authority shall not forward the transfer application, but in Rule 6(2)(e), the provisions as contained in Rule 6(2)(c) has been dispensed with if the application for transfer is made under Rule 4(a) to (d).
6. In view of the amendment made to the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 transfer application of a teacher on medical ground cannot be rejected on the ground of single teacher.

7. Therefore, this court finds substance in the case made out in this writ petition to the extent that on the finding that the petitioner is a single teacher the application for transfer was rejected.
8. Decision, if taken by the concerned authority of the Commission rejecting the transfer application of the petitioner, is set aside.
9. The Chairman of the Commission is directed to take final decision on the transfer application of the petitioner by six weeks from the date of communication of this order. However, it is made clear that the transfer application of the petitioner shall not be rejected on the ground that the petitioner is a single teacher.
- 10 If the transfer application of the petitioner is allowed and petitioner is transferred to another school, in that event the resultant vacancy would be filled up by the authorities by taking necessary steps immediately.
- 11 The writ petition stands disposed of.
- 12 However, there shall be no order as to costs.
- 13 Urgent photostat certified copy of the order if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)

