

09 27.06.2024
rkd Ct.18

W.P.A. 15722 of 2024

Mitali Dey

-vs-

The State of West Bengal & Ors.

Md. Manuwar Ali,
Ms. Amoumita Karmakar

....for the petitioner.

Mr. Sourav Mitra,
Mr. Sunit Kumar Roy

....for the WBCSSC.

Mr. Supriya Chattopadhyay,
Mr. Arindam Ghosh

....for the State.

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 learned advocate representing the petitioner submits that the petitioner being an Assistant Teacher in a Government aided High School has prayed for her transfer by making application on offline mode dated 4th March, 2024.

It is also submitted that prior to that petitioner made applications for transfer on medical ground dated 7th April, 2022 and 12th July, 2022 but the concerned medical officer on medical examination of the petitioner found that it was not a fit case to allow the petitioner to be transferred on

the medical ground. Subsequently, petitioner made application on offline mode on 4th March, 2024 seeking general transfer on the ground of distance in between the residence of the petitioner and her school. Petitioner has prayed for issuance of mandamus directing the concerned authority to transfer the petitioner in accordance with law based on such application dated 4th March, 2024.

The learned advocate representing the Commission submits that previous transfer applications of the petitioner on medical ground were rejected since petitioner was not found to be eligible to be transferred on medical ground.

In addition thereto, offline application has been made on 4th March, 2024 wherefrom it cannot be ascertained whether petitioner is seeking transfer on medical ground or on the ground of distance. Several grounds have been stated in the said application and that too on offline mode, the Commission would find it difficult to consider such application in accordance with law.

Mr. Chattopadhyah, learned Additional Government Pleader submits that he has received instruction from the concerned District Inspector of Schools that petitioner is a single teacher in the school in the subject of Work Education having 804

students whereas 8 Assistant Teachers are working at present including the petitioner. Therefore, Pupil-Teacher Ratio of the said school at present is 100:1 which will not permit the petitioner to be transferred on the ground of distance since it is not a case of transfer on medical ground.

Having considered the submissions made on behalf of the parties, this Court finds that first petitioner made applications dated 7th April, 2022 and 12th July, 2022 seeking transfer on medical ground. The applications of the petitioner were considered by the authority but the concerned medical officer on medical examination found that the ailment of the petitioner is such which does not call for her transfer on medical ground.

Since applications for transfer of the petitioner on medical ground were rejected which led the petitioner to file application on offline mode on 4th March, 2024 seeking transfer but on perusal of such transfer application dated 4th March, 2024 it cannot be streamlined whether this application was made on medical ground or on the ground of distance.

Moreover, this Court cannot shut its eyes to the fact that rejection of application for transfer of the petitioner on medical ground is the reason for

making subsequent application dated 4th March, 2024 seeking transfer on other ground. Such approach on the part of the petitioner in pursuit of procuring transfer order is not countenanced.

Accordingly, the writ petition stands dismissed.

However, this order shall not preclude the petitioner to make application for transfer in future in accordance with law.

There shall be no order as to costs.

The written instruction dated 21st June, 2024 which has been forwarded by the concerned District Inspector of Schools (S.E.), South 24 Parganas to his learned advocate is filed and is taken on record.

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

(Saugata Bhattacharyya, J.)