

5
10.07.2024
Ct. No. 18
adeb

W.P.A. 16084 of 2024

Rupali Mondal
Vs.
The State of West Bengal & Ors.

Mr. Shuvro P Lahiri
Mr. Rajesh Naskar
Mr. Akash Saha
...for the petitioner

Ms. Koyeli Bhattacharyya
...for the WBBSE

Mr. Sunit Kr. Roy
...for the SSC

Ms. Rajlakshmi Ghatak
...for the State

In terms of the previous order dated 26th June, 2024 affidavit-of-service filed on behalf of the petitioner is taken on record.

In spite of service upon the school authority being respondent nos. 7 and 8, such respondents are not represented today.

The grievance of the petitioner is withholding of transfer application which was made on medical ground by the concerned District Inspector of Schools (SE), Jhargram in spite of the fact that the concerned Chief Medical Officer of Health on medical verification has certified in favour of the petitioner for being transferred on medical ground. In this regard notice of this Court has been drawn to page 83 of the writ petition wherefrom

it appears that vide memo dated 27th March, 2024 the concerned District Inspector of Schools though referred to favourable medical report of the concerned CMOH, Jhargram but expressed his inability to forward the transfer application of the petitioner due to suspension of Utsashree Portal with effect from 29th September, 2022. The learned advocate has relied upon the order of the Hon'ble Division Bench dated 20th June, 2024 passed on an intra Court appeal being **MAT 163 of 2024 (Mousumi Patra Vs. State of West Bengal & Ors.)** in order to demonstrate that suspension of Utsashree Portal should not create fetter in processing the transfer application of the petitioner. In addition thereto, amended rule 6 as contained in the notification dated 8th September, 2021 has also been relied upon to satisfy this Court that in case of taking decision on transfer application which is preferred on medical ground bar relating to single teacher in the subject in the school where the applicant is serving ought not prevent the authorities to take final decision. Such submission has been made in view of the objection raised by the school authority on the count of single teacher in the subject in the school.

Respondents are represented by learned advocates excepting the school authority. State is represented by learned advocate who has entered appearance online.

It has been submitted on behalf of the respondents on applicability of amended rule 6 of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015. It is also submitted that due to suspension of the Portal as it emanates from the memo dated 27th March, 2024 issued by the concerned District Inspector of Schools timely steps could not be taken on the transfer application of the petitioner.

This Court has already passed order dated 26th June, 2024 on a writ petition being **WPA 15472 of 2024 (Munmun Mondal Vs. The State of West Bengal & Ors.)** on placing reliance on the order of the Hon'ble Division Bench passed in **Mousumi Patra** (supra) that suspension of Utsashree Portal cannot be ground to curtail the statutory right of a teacher seeking transfer on medical ground.

In addition thereto, amended rule 6(2)(e) as contained in notification dated 8th September, 2021 has dispensed with the bar of single teacher norm in allowing transfer application which has been made on medical ground in terms of rule 4(a).

In the present case since petitioner has made application for transfer on medical ground and on medical verification the concerned CMOH, Jhargram has already certified in favour of the petitioner for being transferred the concerned District Inspector of Schools

(SE) ought not to have withheld the transfer application of the petitioner for an indefinite period.

Consequently, the decision taken by the concerned District Inspector of Schools as contained in memo dated 27th March, 2024 stands set aside.

The concerned District Inspector of Schools being additional respondent no. 9 is directed to forward the transfer application of the petitioner to the Chairman, West Bengal Central School Service Commission by 7 (seven) days from the date of communication of this order.

On receipt of such transfer application the Chairman is directed to take final decision on the said application in accordance with law within fortnight thereafter.

The decision to be taken by the Chairman shall be communicated to the petitioner and the school authority within 1 (one) week thereafter. If the Chairman takes decision for transferring the petitioner to another school respondents are directed to immediately take steps for filling up of the resultant vacancy which will be created due to transfer of the petitioner in the school where at present petitioner is serving.

Accordingly, 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.)