

08 05.07.2024
rkd Ct.18

W.P.A. 16206 of 2024

Puspanjali Biswas

-vs-

The State of West Bengal & Ors.

Mr. Sankar Banerjee,
Mr. Mrinmoy Chatterjee

....for the petitioner.

Mr. Ayan Chandra Ray,
Mr. Kaustav Chatterjee

....for the State.

Mr. Sourav Mitra

....for the WBCSSC.

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

Petitioner is an Assistant Teacher in a
Government aided school has prayed for transfer
under Rule 4(1)(c) of the of the West Bengal School
Service Commission (General Transfer, Transfer On
Special Grounds and Reallocation) Rules, 2015
since the distance between the places of work of the
petitioner and her husband is 134 km.

It has been submitted by the learned
advocate representing the petitioner that due to
suspension of Utsashree portal application was
made offline before the school authority and the
school authority in April, 2024 has issued no
objection. Subsequently, the application of the

petitioner stood rejected by the concerned District Inspector of Schools (S.E.), North 24 Parganas vide memo dated 30th April, 2024 on referring to Government Order dated 30th June, 2023.

The State respondents and the West Bengal Central School Service Commission are represented by learned advocates who have opposed the prayer of the petitioner for transfer on the ground of suspension of Utsashree portal as clamped vide notification dated 30th June, 2023.

It has further been submitted that though vide notification dated 30th June, 2023 the suspension of the portal was extended till 31st December, 2023 but there are subsequent notification by which suspension of the portal has been extended and till the suspension is continuing.

It is also submitted on behalf of the respondents that since this is an application for transfer on the ground of distance in between the places of work of the petitioner and her husband, the said application can be considered after suspension of the portal is lifted since it is not a case for transfer on health ground.

Having considered the submissions made on behalf of the parties and taking note of the

materials available on record, this Court finds that petitioner made application seeking transfer under Section 4(1)(c) of the aforesaid Rules of 2015. The school authority has also granted no objection in April, 2024 but the concerned District Inspector of Schools has simply refused to allow the transfer application on the ground of suspension of Utsashree portal.

This Court has already held in other matters that suspension of Utsashree portal cannot take away the right of the teaching/non-teaching staff to be transferred since the right has been conferred upon such staff in terms of the statutory provisions. The statutory right of the staff cannot be curtailed on mere suspension of the portal.

If it is a case which requires consideration based on transfer application of the petitioner; the concerned District Inspector of Schools ought not to have rejected transfer application referring to the Government Order dated 30th June, 2023 which relates to extension of suspension of Utsashree portal till 31st December, 2023.

Accordingly, the decision of the concerned District Inspector of Schools (S.E.), North 24 Parganas as contained in memo date 30th April, 2024 stands set aside.

The concerned District Inspector of Schools (S.E.) is directed to consider the transfer application of the petitioner in accordance with law and if the District Inspector of Schools (S.E.) finds that in terms of the relevant provisions petitioner's transfer application requires forwarding of the same to the concerned authority of the School Service Commission such steps shall be taken by four weeks from the date of communication of this order.

If the transfer application of the petitioner is rejected, reasons shall be assigned by the District Inspector of Schools in support of the same.

In the event transfer application of the petitioner is forwarded to the Office of the Commission, the Chairman of the Commission is directed to take decision on such transfer application of the petitioner in accordance with law within four weeks thereafter.

With the aforesaid direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

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.)