

10.07.2024
sayandeep
Sl. No. 27
Ct. No. 08

MAT 1209 of 2024
With
CAN 1 of 2024

Debabrata Mridha
Vs.
The State of West Bengal & ors.

Mr. Sudip Ghosh Chowdhury
Ms. Shreyeta Mitra

.... for the appellant

Ms. Sipra Majumdar
Ms. Prativa Ghatak

..... for the State

Mr. Sunit Kr. Roy

... for the SSC

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta

... for the WBBSE

The writ petition filed by the appellant alleging inaction on the part of the School Service Commission in not taking a conscious decision on an application for transfer on medical grounds is rejected by the Single Bench as the earlier application for transfer filed by the petitioner on other ground having rejected, the subsequent application is not *bona fide*.

There is no barrier on the part of an employee to apply for transfer if the circumstances necessitating such transfer is different. Though the learned Single Judge has opined that the rejection of the writ petition shall not prevent the petitioner to make an application seeking transfer if the situation arise in future, the second application necessitated by a medical emergency

should be considered as a changed circumstances and, therefore, the rejection in such manner does not appear to be appropriate.

Furthermore, the application for transfer on medical ground was processed at two tier of the system and has reached to the domain of the School Service Commission. Such fact should be taken into account as the authorities at the foundational level held that the ground so raised needs to be scrutinized by a higher authority.

In such view of the matter, the order impugned is set aside.

The School Service Commission is directed to take a conscious decision on the said application within three weeks from the date of the communication of this order in accordance with law.

Accordingly, MAT 1209 of 2024 is disposed of without any order as to costs.

The connected application being CAN1 of 2024 is also disposed of.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)