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24.07.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 17750 of 2024

**Saheli Mondal
-versus
The State of West Bengal & Ors.**

**Mr. Sudipta Dasgupta,
Mr. Sondwip Sutradhar.
...For the Petitioner.**

**Mr. Bibekananda Tripathy,
Ms. Dipanwita Laha.
...For the State.**

**Mr. Koushik Chowdhury.
...For WBBPE.**

**Mr. Anath Nath Naskar,
Mr. Saikat Sutradhar.
...For the Respondent No.11.**

Affidavit-of-service filed in Court today is taken on record.

The order passed by the Secretary, West Bengal Board of Primary Education on 7th June, 2024 rejecting the prayer for mutual transfer made by the petitioner and the private respondent is impugned in the instant writ petition.

The reason assigned for rejection is that the petitioner herein did not submit her letter of confirmation of service at the time of hearing which was conducted in terms of the direction passed by the Court on 8th April, 2024 in WPA 5200 of 2024 (Sanghamitra Das -vs- The State of West Bengal & Ors.).

The second ground for rejection is that the petitioner was transferred in the year 2020. Prayer for transfer before completion of five years from the last transfer order cannot be entertained.

Rule 6(1) of the West Bengal Board of Primary Education (Transfer of Teachers including Head Teacher) Rules, 2002 has been relied upon.

Learned advocate appearing on behalf of the petitioner submits that the petitioner has already completed two years of service and, accordingly, her service should be deemed to be confirmed. Formal letter of confirmation is to be issued by the respective Council and the petitioner does not have any role in the matter.

Law provides that confirmation of service will be made on completion of two years in service. As the petitioner has already completed two years of service, she has to be treated as a confirmed teacher irrespective of the fact whether the letter of confirmation is issued in her favour or not. The teacher has not been intimated about any reason which may stand in her way of her service being confirmed after successful and satisfactory completion of two years in service.

Accordingly, the first ground for rejecting the prayer of the petitioner cannot be held as a valid one.

As regards the second ground of rejection in not completing five years from the last transfer order, it appears that the last order of transfer was made at the instance of the Board. The same was a general order of transfer in respect of several teachers. The petitioner never applied for transfer.

The said transfer order was made pursuant to the order of the Joint Secretary, Government of West Bengal, Department of School Education, Elementary Education Branch where decision was taken that the primary teachers posted outside their home district shall be transferred to their respective district of permanent residence as far as practicable. A list of teachers was prepared based on available information. The order mentions about priority be given to single teacher schools and schools with high pupil teacher ratio.

In the instant case, the permanent residence of the petitioner is in Purba Medinipur and she intends to be transferred to a school in Purba Medinipur. She is currently teaching in a school in the district of Paschim Medinipur.

Similarly, the private respondent is teaching in the school of Purba Medinipur and she intends to be transferred to the school in the district of Paschim Medinipur. The private respondent Sanghamitra Das has never been transferred earlier.

The petitioner relies upon the orders passed by a coordinate Bench on 24th June, 2024 in WPA 14973 of 2024 (Mousita Ghanta & Anr. -vs- The State of West Bengal & Ors.) and on 21st May, 2024 in WPA 13582 of 2024 (Juthika Saha & Anr. -vs- The State of West Bengal & Ors.) wherein the Court held that normal restriction of transfer under Rule of 2002 does not apply to mutual transfer unless there are extreme and extenuating circumstances.

Here there is no extreme or explanatory reason for not allowing the prayer for mutual transfer. As the parties have mutually agreed to the transfer, none of

the schools from where the teachers will be transferred will suffer.

In view of the above the second ground for rejection of the petitioner's prayer is set aside. In line with the decision passed by the Hon'ble Court in the matters referred to hereinabove, the Board is directed to permit the petitioner and the private respondent to avail the benefit of mutual transfer. The Board is directed to process the applications of the teachers for transfer at the earliest but positively within a period of four weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)