

ML 167
15.07.2024
Ct. No. 15
adeb

W.P.A. 19330 of 2022

**Smiriti Kona Dey
Vs.
The State of West Bengal & Ors.**

Ms. Pampa Dey Dhabal
Ms. Sangita Banerjee

...for the petitioner
Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
...for the WBCSSC

Ms. Debarati Sen
...for the State

Affidavit of Service filed on behalf of the petitioner is taken on record.

Matter is heard in presence of the learned advocates representing the petitioner, State-respondents and West Bengal Central School Service Commission.

Matter relates to transfer of the petitioner from her present school to another school and in this regard an application has been made by the petitioner on offline mode on 9th July, 2022 to the school authority where presently petitioner is serving.

It has been submitted on behalf of the petitioner that the school authority has refused to forward the transfer application of the petitioner to the higher authorities for taking decision.

Petitioner prays for mandamus giving direction upon the concerned respondent authorities for taking decision on the transfer application of the petitioner.

The writ petition is opposed by the learned advocates representing the State-respondents and the Commission on the ground that the school has refused to forward the transfer application of the petitioner to the higher authorities since she is only teacher in the school. In this regard amended Rule 6(2)(c) as contained in notification dated 8th September, 2021 is relied upon wherein it has been provided that in the event number of subject teacher in the school after the transfer of the applicant becomes zero the transfer application on the ground of distance ought not to be entertained. According to the Commission on transferring the petitioner the number of teacher in the subject not only will become zero but there will be no teacher in the school. Since it is a case of transfer on the ground of distance amended Rule 6(2)(c) becomes applicable.

Having considered the submissions made on behalf of the parties it appears that transfer of the petitioner is barred at present by the provisions as contained under amended Rule 6(2)(c) on the ground that if petitioner is transferred in that event not only there will be no teacher in the subject of the petitioner but the total teaching strength of the school would be zero.

In view of aforesaid scenario no relief can be granted to the petitioner based on the transfer application made on 9th July, 2022.

Accordingly, the writ petition stands dismissed.

However, this order shall not preclude the petitioner to apply for transfer on the ground of distance if other teachers are appointed in the school.

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.)