

29.04.2024.
Court No.13
Item No. 40
ap

W.P.A. No. 20140 of 2022
Kalyani Sarkar Hazra
Versus
The State of West Bengal & Ors.

Mr. Aniket Mitra,
Ms. Nandini Chatterjee,
Mr. Sayan Dutta.

...For the petitioner.

Md. Sarwar Jahan,
Sk. Nayeemul Haque.

...For the respondent nos.4 & 5.

Mr. Manas Kundu,
Mr. Mansoor Alam.

...For the State.

1. Affidavit-of-service and supplementary affidavit filed in Court today are taken on record.
2. The petitioner, pursuant to the liberty granted in W.P. No. 13492 of 2021, applied for transfer on medical grounds from Bamnabad Raninagar-II Circle, Murshidabad to No.7, Manindra Nagar High Primary School under Sadar West Circle.
3. The petitioner was originally appointed in Bamnabad Raninagar-II Circle, Murshidabad in the year 1995. She was sent on deputation to No.7, Manindra Nagar High Primary Junior Basic School under Sadar West Circle in Murshidabad in the year 2018. She continued to work there until 15th July, 2021 when she was asked to report back and join the parent School being Bamnabad Raninagar-II Circle, Murshidabad.

4. The petitioner challenging repatriation to the parent School, filed an earlier writ petition which was dismissed. She did not join the parent institution and remained absent therefrom. She claims to have attended No.7, Manindra Nagar High Primary Junior Basic School since 2021 but was not being allowed to sign on the attendance register. Her salary has been stopped from May, 2023.

5. This Court is surprised to note as to how the petitioner was receiving salary from July 2021 till April 2023 without joining the parent School at Bamnabad Raninagar-II Circle, Murshidabad.

6. Be that as it may, the petitioner has applied for transfer on medical ground on 26th September, 2021 which remains unconsidered.

7. Having regard to the facts and circumstances of the case, this Court is of the view that the question for consideration of the transfer of the petitioner does not and cannot arise until the period of absence from Bamnabad Raninagar-II Circle, Murshidabad is decided upon by the respondent nos.5 and 6.

8. In those circumstances, the respondent nos.5 and 6 shall first take a decision on the petitioner's absence since July, 2021 till date and pass appropriate deterrent orders thereon.

9. It shall also be enquired into as to under what circumstances the petitioner was paid salary for

service under the District Primary School Council from July, 2021 till 2023. All steps under the law shall be taken to recover the same from the petitioner.

10. It is only thereafter that the petitioner's application for transfer, if at all be necessary, may be considered.

11. Let a decision be taken by the District Primary School Council in terms of the applicable Rules within a period of one month from date and communicate the same to the petitioner.

12. With the aforesaid directions, the instant writ petition shall stand disposed of.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)