

27.09.2024
Court No. 18
Item No.25
(Suvendu)

WPA 20519 of 2024

Prasenjit Kaibartya
-Versus-

The State of West Bengal & Ors.

Mr. Ujjal Ray
Mr. Atreya Chakraborty
.....for the petitioner

Mr. Supriyo Chattopadhyay, Ld. AGP
Ms. Sayantanee Bhattacharjee
.....for the State

Mr. Sunit Kumar Ray
.....for the WBCSSC

Report in the form of affidavit has been filed on behalf of the District Inspector of Schools (SE), Purba Bardhaman and same is taken on record.

On perusal of the said report, it appears that out of twenty-seven teachers working in the school four have taken transfer and names of teachers who have been permitted to take transfer are also indicated in paragraph 8 of the said report. However, in the same breath it is also indicated in paragraph 8 of the said report that one Subhasish Roy being an Assistant Teacher who has taken transfer is junior to petitioner. Therefore, according to the concerned District Inspector of Schools, instead

of said Subhasish Roy petitioner ought to have been permitted to take transfer.

However, having considered the averments made in this writ petition, it appears that out of twenty-seven teachers four have taken transfer which is more than 10% of the existing teaching strength of the school. Therefore, transfer of the petitioner taking note of embargo as contemplated under Rule 5(6) of the Transfer Rules of 2015 is impermissible.

In view of the report submitted on behalf of the concerned District Inspector of Schools, the writ petition stands dismissed.

However, this Court deprecate conduct of the school authority in allowing said Subhasish Roy to take transfer ignoring seniority of the petitioner with a note of caution that in the event this incident recurs in future that will be viewed seriously by this Court.

Before parting with, it needs to be recorded that petitioner has sought for transfer on the ground of distance and it is not a case of transfer on medical ground.

Leave is granted to the petitioner to apply for transfer in future in accordance with law if teaching strength of the school is augmented.

There shall be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Saugata Bhattacharyya, J.)