

Ml- 18.11.2024
107 Ct.18
rkd

W.P.A. 20742 of 2023

Saurav Basu

-vs-

The State of West Bengal & Ors.

Mr. Shuvro Prokash Lahiri,
Mr. Rajesh Naskar,
Mr. Ankan Mondal

....for the petitioner.

Mr. Saikat Chatterjee,
Md. Ziaur Rahaman

....for the State.

Ms. Koyeli Bhattacharyya,
Mr. Bibek Dutta,
Ms. Keya Panja

....for the WBBSE.

Mr. Sourav Mitra

....for the WBCSSC.

Affidavits-of-service filed on behalf of the
petitioner are taken on record.

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

However, the school authority of Fataiupur
Junior High School, Districti- Nadia being
respondent nos.7 & 8 are not respondents.

The learned advocate representing the
petitioner submits that an application for transfer

was made on 27th January, 2022. It is also contended that the reason behind making such application is that petitioner's daughter is suffering from microcephaly with spastic cerebral palsy.

Reliance is also placed on amended Rule 4(a) as contained in notification dated 8th September, 2021 wherein it has been provided that a teacher may apply online on a designated portal for transfer if the said teacher or his/her son/daughter/spouse is suffering from malignant disease/severe heart disease/renal failure/thalassemia, replacement of organ/serious gynecological disorder causing serious problem in attending the school.

In spite of making application for transfer same was not processed by the concerned District Inspector of Schools (SE), Nadia being respondent no.6 though transfer application of the petitioner was forwarded by the Teacher-in-Charge of school where petitioner is presently working vide letter dated 7th February, 2022.

Petitioner prays for necessary direction upon the concerned respondent authorities for due consideration of his transfer application considering his plight since his daughter is suffering from microcephaly with spastic cerebral

palsy.

In order to find out whether petitioner is eligible to be transferred in view of the special circumstances as his daughter is suffering from microcephaly with spastic cerebral palsy this Court finds it fit to quote amended Rule 4(a) as contained in notification dated 8th September, 2021 below:

(a) *Any incumbent or his/her son/daughter/spouse suffering from malignant disease/ severe heart disease/ renal failure/thalassemia, replacement of organ/serious gynecological disorder causing serious problem in attending the school”;*

On reading the aforesaid provision, it appears that the object of inserting such provision is to find out whether due to ailment of the applicant teacher or his/her son/daughter/spouse, applicant teacher is finding it difficult to attend the school as a result whereof the expression is used “causing serious problem in attending school”.

Respondent no.6 as a special case shall obtain medical report from the concerned Chief Medical Officer of Health by fortnight from date whether the nature of ailment of the daughter of the petitioner is causing serious problem to the petitioner in attending the school or not.

If the concerned CMOH furnishes report

that the disease of the daughter of the petitioner is serious which causes problem to the petitioner to attend the school, the respondent no.6 shall forward the transfer application of the petitioner to the Chairman, West Bengal Central School Service Commission being respondent no.3 by seven days from the date of receipt of medical report from the concerned CMOH.

On receipt of transfer application and medical report, the Chairman, West Bengal Central School Service Commission shall take final decision on transfer application of the petitioner by four weeks thereafter and the decision to be taken by the Chairman shall be communicated to the petitioner by one week thereafter.

This Court expects that in the event the transfer application of the petitioner is forwarded by the respondent no.3 to the Chairman, Chairman in his turn shall take decision on transfer of the petitioner sympathetically.

With the aforesaid observation and direction the writ petition stands disposed of.

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.)