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Ct. 18
06.05.2024

W.P.A. 21453 of 2022

Bikash Biswas
Vs.
The State of West Bengal & Ors.

Mr. Bishwarup Bhattacharya,
Mr. Sougata Mitra,
Ms. Soma Chakraborty ... For the petitioner.

Mr. Biswabrata Basu Mallick, AGP ... For the State.

Mr. Sunit Kumar Roy ... For the WBCSSC.

Affidavit-in-reply to the affidavit-in-opposition of the respondent no. 4 filed on behalf of the petitioner be kept with the record.

The petitioner while working as an Assistant Headmaster (AHM) at Ajodhya High School (H.S.), District – Paschim Bardhaman, applied for general transfer through *Utsashree Portal*, his prayer was allowed and he was transferred to the Bijra High School, Durgapur, - District – Paschim Bardhaman, the school of his first choice, but since there is no post of AHM in the said school, he joined there as an Assistant Teacher.

The petitioner is praying that the order of transfer since has affected his scale of pay, he may either be reverted back to his earlier school or may be given pay protection.

Mr. Bhattacharya, learned advocate for the petitioner submits that it was never apprised to the

petitioner that there is no post of AHM in the Bijra High School, Durgapur, District – Paschim Bardhaman, as such the petitioner unknowingly opted for the said school.

He further submits that the order of transfer cannot be punitive, but with the reduction of pay to the petitioner on transfer, it has become so. To support his such contention, he refers to an unreported judgment of the Hon'ble Division Bench of this Court dated May 11, 2022 in **M.A.T. 612 of 2022**, in the case of ***Sanghamitra Bhattacharya Vs. Sudeshna Kar & Ors.***

Mr. Basu Mallick, learned Additional Government Pleader submits that the post of AHM is always school-specific, as such the prayer of the petitioner for pay protection is misconceived, and since the petitioner opted for his present school voluntarily, he cannot pray for going back to his earlier school.

Mr. Roy, learned advocate for the West Bengal Central School Service Commission, the respondent no. 3 herein submits that under the relevant rules, the petitioner can apply for transfer to another school as Assistant teacher, not as an AHM.

Having heard the learned counsel for the parties and on perusal of the materials on record, it appears that the petitioner was holding the post of an approved AHM in his earlier school, but on transfer, not only has he lost his said status, but his pay has

also been reduced, rendering the order of transfer a punitive one, such being the position, the prayer of the petitioner demands a further consideration.

The Commissioner of School Education, Government of West Bengal, the respondent no. 4 herein shall therefore, consider the prayer of the petitioner in accordance with law, if necessary, after giving him an opportunity of hearing.

To facilitate the said consideration, the petitioner is directed to serve a complete copy of the writ petition along with a copy of this order upon the said respondent within a week from date.

The respondent no. 4 shall make all endeavors to dispose of the referred issue as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of the said writ petition and copy of this order.

W.P.A. 21453 of 2022 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)