

17.09.2024
Court No. 18
Item No.09
(Suvendu)

WPA 21865 of 2024

Debarun Das
-Versus-

The State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury
Ms. Shreyeta Mitra
.....for the petitioner

Ms. Jayeeta Sinha
Mr. Sandip Mandal
.....for the State

Mr. Kanak Kiran Bandyopadhyay
.....for the WBCSSC

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
....for the WBBSE

It needs to be recorded that writ petition was heard on 11th September, 2024 when an order was dictated in open Court upon placing reliance on Rule 9 of the West Bengal School Service Commission (General Transfer, Transfer On Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as “said Rules of 2015”) in the backdrop of facts that petitioner was mutually transferred on 17th August, 2017 pursuant to mutual transfer order dated 26th July, 2017. Therefore, according to West Bengal Central School Service Commission, in terms of Rule 9 of said Rules of 2015 further transfer on making application on Utshasree portal ought

not to be entertained. After the order was dictated it was brought to the notice of this Court by mentioning on 11th September, 2024 that Rule 9 of said Rules of 2015 was amended vide notification dated 8th September, 2021. It has been provided in the amended Rule 9 that applicant teacher, if otherwise eligible, may again apply for general transfer after completion of five years of service from last transfer. Since it was brought to the notice of this Court on mentioning after the order was dictated on 11th September, 2024 Court directed to place the matter on board today for further consideration and the order which was dictated on 11th September, 2024 was not signed. Let draft order dated 11th September, 2024 be kept with the record.

Today, matter is heard afresh in presence of learned advocates representing the parties.

This Court has taken note of amended Rule 9 as provided in the notification dated 8th September, 2021 which confers right upon the applicant teacher to seek transfer after completion of five years of service from last transfer. In the present case, petitioner joined post on mutual transfer on 17th August, 2017 and has preferred an application for transfer on

Utshasree portal on 9th September, 2022 which goes to show that application for transfer on portal has been made on medical ground five years after last transfer of the petitioner. The transfer application of the petitioner on medical ground was not processed by the concerned District Inspector of Schools on the count that petitioner got benefit of transfer previously.

However, in view of amended Rule 9 it appears that objection raised by the concerned District Inspector of Schools is not tenable. Since it is submitted on behalf of the petitioner that transfer application is presently lying with the concerned District Inspector of Schools being respondent no. 4, respondent no. 4 is directed to obtain medical report from the concerned Chief Medical Officer of Health (CMOH) on medical verification, if same has not been done in the meantime and in the event medical report justifies transfer of the petitioner, respondent no. 4 shall forward the transfer application of the petitioner along with medical report to the Chairman, West Bengal Central School Service Commission for taking final decision. If the Chairman of the Commission receives transfer application from the respondent no. 4, same shall be decided by the Chairman of the

Commission within reasonable time. Aforesaid exercise shall be completed by respondent no. 4 by six weeks from the date of communication of this order.

Hence, the writ petition is disposed of.

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.)