

19.07.2024
Court No. 18
Item No. 215 (ML)
(Suvendu)

WPA 22908 of 2022

Kajal Mondal
-Versus-

The State of West Bengal & Ors.

Ms. Shetparna Ray
.....for the petitioner

Mr. Biswajit De
Ms. Rajlakshmi Ghatak
.....for the State

Mr. D.K. Sengupta
Ms. Sweta Saha
Ms. Farhin Mustaque
.....for the respondent nos. 7 and 9

The writ petition is heard in presence of the learned advocates representing the petitioner, State respondents and the respondent nos. 7 and 9.

Matter relates to transfer of the petitioner on medical ground and in this regard an application was made by the petitioner on 10th August, 2022. It has been submitted by the learned advocate representing the petitioner that in spite of making application on medical ground the said application was not processed by the concerned school authority on the ground that

petitioner was found as single teacher. It is submitted that in terms of the provisions as contained in the notification dated 8th September, 2021 whereby amendment was made to Transfer Rules of 2015, transfer application on medical ground cannot be frustrated on the basis of embargo relating to single teacher.

The learned advocate representing the concerned school authorities has made an attempt to persuade this Court that considering the roll strength of the concerned school, the said authority had to take decision not to allow the transfer application of the petitioner by issuing 'no objection' and that was for the academic interest of the students.

However, on query being posed to the learned advocate representing the school authorities that how stand of the petitioner can be countenanced in view of the amendment of Rules 6(2)(c) and 6(2)(e) as contained in notification dated 8th September, 2021, this Court does not get any satisfactory reply.

State respondents are represented by the learned advocate but the West Bengal Central

School Service Commission is not represented today.

Having considered the submissions made on behalf of the parties and taking note of the provisions as contained in amended Rules 6(2)(c) and 6(2)(e) as provided in the notification dated 8th September, 2021, it appears that in taking decision on transfer application on medical ground bar relating to single teacher as fastened vide amended Rule 6(2)(c) stands dispensed with by amended Rule 6(2)(e).

In view of aforesaid Rules as contained in the notification dated 8th September, 2021, this Court finds that there is no embargo in processing and deciding the transfer application of the petitioner.

Hence, the writ petition is disposed of by directing the school authority of Dhamadanga High School (HS), District –Murshidabad being the respondent nos. 7 and 9 to send the petitioner for medical verification by the concerned Block Medical Officer of Health first and if the report of the Block Medical Officer of Health comes in favour of transfer of the petitioner, transfer application of the petitioner along with medical certificate shall be forwarded

to the concerned District Inspector of Schools (SE), Murshidabad being the respondent no. 8 by fortnight from the date of communication of this order. After receiving papers from the said school authorities, respondent no. 8 shall take steps in accordance with law if the concerned BMOH certifies in favour of transfer of the petitioner. However, before forwarding the application of the petitioner to the concerned authority of the West Bengal Central School Service Commission further medical verification shall be made by the concerned CMOH and in this regard necessary steps shall be taken by the respondent no. 8. If report of CMOH comes in favour of the petitioner the transfer application shall be forwarded to the concerned authority of the Commission for taking final decision on such transfer application. All formalities shall be completed by the respondent no. 8 by four weeks from the date of receipt of papers from the concerned school authorities.

With the aforesaid observations and direction, the writ petition stands 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.)