

W.P.A. 22986 of 2022

**Kamal Kanta Samui
Vs.
The State of West Bengal & Ors.**

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

Mr. Abhishek Banerjee
Mr. Satyam Mukherjee
....for the State

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
Mr. Sunit Kr. Roy

...for the WBCSSC

In terms of the order dated 7th August, 2024 a report in the form of affidavit has been filed today on behalf of the West Bengal Central School Service Commission and the same is taken on record.

On perusal of the said report it appears specifically in paragraph 6 under different sub-paragraphs that petitioner opted for three schools for transfer but he was not found eligible to be transferred to a post in any of those three schools. Out of these three schools in two schools rank of the petitioner was lower than the candidates who were selected for transfer. In another school one candidate was recommended even prior to making application for transfer by the petitioner on medical ground.

Mr. Ujjal Roy, learned advocate representing the petitioner has relied upon amended Rule 6(4)(d) as contained in a notification dated 8th September, 2021 whereby the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 was amended. Said Rule 6(4)(d) is quoted below:-

“6(4)(d) In case of application for transfer in the category of rule 4(a) to (d) by a teacher of a particular subject to a school which is already having sufficient or excess teacher in that subject, Central Commission shall not consider the application for transfer to opted school. In the event when all options exercised are not found suitable, the incumbent may be considered for transfer to a school (having requirement of that subject teacher) nearby to opted school(s).”

It is specifically provided in amended Rule 6(4)(d) that in the event the teacher is not found eligible to be transferred to one of the three preferred schools as indicated in the transfer application the said teacher may be considered for other suitable vacancies in the schools which are nearby to the opted schools.

This Court finds that the situation as it is emanating from the averments made in paragraph 6 of the report filed on behalf of the Commission, the amended Rule 6(4)(d) is applicable.

Accordingly, the Chairman, West Bengal Central School Service Commission being respondent no. 2 is directed to call the petitioner to appear before the respondent no. 2 on a fixed date and time when

petitioner would be shown other available and suitable vacancies in the schools which are nearby to the schools which were opted by the petitioner while making application for transfer and if petitioner opts for a vacancy consequential steps shall be taken for transferring the petitioner by passing necessary order. Petitioner shall be put on 7 (seven) day's notice by the respondent no. 2 for his appearance before him. The aforesaid exercise shall be completed by the respondent no. 2 by 8 (eight) weeks from the date of communication of this order.

The writ petition stands disposed of.

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.)