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30.07.2024
Ct. No. 18
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W.P.A. 24069 of 2022

Biswajit Nag
Vs.
The State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury
...for the petitioner

Mr. Sourav Mitra
...for the WBCSSC

Mr. Gourav Das
...for the State

Matter relates to transfer of the petitioner being an assistant teacher in a Government aided junior high school on medical ground. The reason which has been shown by the petitioner is gynecological problem which petitioner's wife is suffering from. The transfer application was processed by the school authority and forwarded to the District Inspector of Schools (SE) Birbhum and the said District Inspector of Schools in his turn took steps for medical verification of the wife of the petitioner by the concerned Chief Medical Officer of Health, Rampurhat Health District Birbhum.

Pursuant to the previous order passed by this Court a report signed by the concerned District Inspector of Schools dated 26th July, 2024 is placed before this Court along with relevant documents including the certificate issued by the CMOH dated 1st June, 2022. It is

true as it appears on perusal of the said report and appended documents that CMOH as well as Medical Superintendent cum Vice Principal, Rampurhat Government Medical College & Hospital, Birbhum certified that the wife of the petitioner is suffering from gynecological disorder which justifies transfer of the petitioner on medical ground. On the contrary in the report dated 26th July, 2024 the concerned District Inspector of Schools has demonstrated a ground reality so far the school is concerned where petitioner is working which is not conducive to transfer of the petitioner. Report of the concerned District Inspector of Schools says that in the said junior high school there are four units against which two teachers are functioning including the petitioner. If petitioner is transferred the school has to be run with one teacher which makes the situation worse since there are four classes from class V to class VIII.

However, it also appears from the said report dated 26th July, 2024 that the concerned District Inspector of Schools has forwarded the issue to the Commissioner of School Education, West Bengal vide two memoranda dated 1st June, 2022 and 25th August, 2022 but the concerned District Inspector of Schools has not received any response from the Commissioner of School Education.

In view of aforesaid scenario the matter is relegated to the Commissioner of School Education, West Bengal for taking decision whether petitioner can be transferred on medical ground in view of the certificate issued by the medical expert which justifies transfer of the petitioner, if possible on making alternative arrangement in the said school temporarily on deputing teachers to protect the academic interest of the students till regular incumbents join the post of assistant teachers.

The Commissioner is directed to take reasoned decision considering the aforesaid situation after granting opportunity of hearing to the petitioner, school authority where petitioner is working and the concerned District Inspector of Schools or his representative within a period of 12 (twelve) weeks from the date of communication of this order.

Decision to be taken by the Commissioner shall be communicated to the parties within 1(one) week thereafter.

Writ petition stands disposed of.

Leave is granted to the learned advocate for the petitioner to amend the cause title of this writ petition and add Commissioner of School Education, West Bengal as additional respondent in course of this day.

Service of notice upon the additional respondent stands dispensed with since State-respondents are represented by the learned advocate.

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.)