

80 08.08.2024
NB Ct. 17

WPA 24863 of 2022

Sima Das
Vs.
The State of West Bengal & Ors.

Mr. Ujjal Ray,
Mr. Sk. Abdur.
...for the petitioner.

Mr. Sanjay Saha.
...for the school/respondent no.9.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an Assistant Teacher of Sanskrit (Hons/PG) at the Somruk Shital Chandra Institution H.S. in the district of Howrah. Her son is a patient of Thalassemia for which she requires frequent blood transfusions. The petitioner has to accompany him to the hospital on such occasions. This prompted the petitioner to pray for transfer from the said school to a school closed to her residence at Nischintapur, South 24-Parganas. The notification in this regard makes it abundantly clear that if such an application for transfer is made on medical ground then the absence of any other teacher in the same subject in the said school would not be a consideration. But, the school has not forwarded the prayer to the concerned DI for subsequent transmission to the School Service Commission. He refers to a reasoned order dated 30.06.2023 passed by the District Inspector of Schools S.E. Howrah, a copy of which is taken on record. By that report, the direction to deduct salary on the

ground of the petitioner's absence was set aside. Therefore, it was absolutely clear that the D.I. was not sending the recommendation made by the School for departmental action against the petitioner on the ground of unauthorised absence for consideration before the Board. In spite of this, the School sat tight on the petitioner's application for transfer and did not take steps.

Learned counsel representing the School Authorities denies the allegations made in the writ petition and submits as follows. There is only one teacher of the subject that the petitioner teaches at the school and if she is transferred, the studies of the students of the said school would suffer irreparably. Incidentally, a departmental action was earlier proposed by the School Authorities on the ground of unauthorised absence.

First, the position of law is quite clear that the absence of a teacher of a subject in the School can be no ground of consideration in respect of an application made by a teacher for transfer on medical ground.

Secondly, the issue of contemplation of a departmental proceeding on the petitioner's unauthorised absence exists no more in view of the order passed by the concerned DI.

Therefore, it shall be the duty of the School Authorities to forward the transfer application of the petitioner on medical ground to the concerned DI for appropriate action.

In view of the above and for the balance of convenience, let the respondent School Authorities forward the transfer application of the petitioner on medical ground to the

concerned DI within a fortnight from the date of communication of this order. Thereafter, the concerned DI shall take appropriate steps in accordance with law.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)