

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Harish Tandon**

And

The Hon'ble **Justice Prasenjit Biswas**

M.A.T. No. 1842 Of 2022

With

CAN 1 of 2024

With

CAN 2 of 2024

With

CAN 3 of 2024

Aditi Mondal

-Versus-

The State of West Bengal And Ors.

For the Appellant : **Mr. Rahul Karmakar,
Mr. Sounak Mukherjee,
Mr. Samaita Das Chowdhury**

For the W.B.B.S.E : **Ms. Koyeli Bhattacharyya,
Mr. Bibek Dutta.**

For the W.B.C.S.S.C : **Mr. Sunit Kumar Roy.**

Delivered on : **19.07.2024**

Prasenjit Biswas, J:-

1. The matter in issue involved in this case relates to a transfer application filed by the petitioner/appellant on the medical grounds of her spouse.

2. This appellant/petitioner joined as an Assistant Teacher in Oari High School on February 14, 2003. She had applied for transfer on the ground of illness of her husband. It is stated that despite cogent grounds as made out by the petitioner, the Headmaster of the concerned school refused to issue 'no objection' on the ground that the distance between the school to the residence of the petitioner is within 25 kilometers. The matter was taken to this Court by the present appellant by filing a writ application being W.P.A No. 15822 of 2021 seeking prayer for her transfer on medical ground of her husband. It was stated before the Single Bench of this Court that the husband of the petitioner is undergoing dialysis for the past two years and she applied for transfer and has chosen three other schools which are situated within the district Burdwan at which the residence of this petitioner is also situated. Learned Single Bench of this Court found no reason to entertain the application of the petitioner praying for transfer and the said writ petition was rejected by passing the impugned order. The relevant portion of the said impugned order is quoted herein below-

“However, the Court sees that the petitioner’s husband is undergoing Dialysis for the past two years.

The School is already located in Burdwan Sadar North. The petitioner has applied for transfer and has chosen three other Schools also within the Burdwan Sadar North.

This Court sees absolutely no reason why the application for transfer should be entertained.

In that view of the matter, although rejection of the petitioner has been on medical ground has been inappropriate, no relief can be granted to the petitioner in the particular facts and circumstances of the case.”

3. Being aggrieved and dissatisfied with the said impugned order passed by the learned Single Bench of this Court the appellant/petitioner has preferred this instant appeal.

4. Mr. Rahul Karmakar, learned Counsel appearing on behalf of the petitioner submitted before us interalia that although the application had been filed on behalf of the petitioner with a prayer for transfer twice on the ground of medical illness of her spouse but the concerned Headmaster of the school refused to issue no objection on the ground that the school in which this petitioner is appointed as a teacher is situated within 25 kilometers from his residence. It is further submitted by the learned Counsel that the petitioner had named three schools which are situated within close proximity of the residence of the petitioner in comparison to the school to which this petitioner is presently working as a teacher. Mr. Karmakar, learned Counsel further submitted that after passing of the impugned order and after filing of this instant appeal there were some developments in the case which would demonstrate the present mental condition of the petitioner. As per submission of the learned Counsel the present appellant/petitioner was admitted into a nursing home for her own treatment and was discharged there from on June 26, 2022. So, the medical condition of the petitioner is such that it becomes more difficult for her to travel for long hours and to attend school. It is further stated that the daughter of the

present petitioner had expired on September 23, 2023 which has completely affected the petitioner mentally. The husband of the petitioner is now advised by the doctor to continue with dialysis thrice a week and her only son is a student of Class X. It is submitted that save and except this petitioner there is no other in her family to look after them. Mr. Karmakar further submitted that looking into the present state of affairs of the petitioner his prayer for transfer from her present school to one of the three schools as she mentioned in her application may be considered on humanitarian ground.

5. Admittedly, the distance from the school at which the present petitioner is working as a teacher and to the residence of the petitioner is 25 kilometers. Now the petitioner has applied for getting his transfer from that school to one of the three schools which are situated at close proximity of the petitioner's residence in comparison to the present school. Learned Trial Court observed that there is no reason for which the application for transfer of the petitioner should be entertained.

6. We are not unmindful that the service conditions gives right to claim transfer on fulfillment of certain conditions. An application for transfer has to be considered on the basis of existing and/or prevailing rules. It appears that the distance between the present school of the petitioner and the residence of the petitioner is within 25 kilometers but filing the transfer application the present petitioner is seeking transfer to any of the school which is more nearer to the her residence. The petitioner had applied for transfer cited personal inconvenience as reasons but those grounds as taken by the present petitioner does not inspire confidence of this Court. So, we are not inclined to interfere the order passed by the learned Single Bench.

7. Accordingly, the present appeal filed by the appellant is devoid of any merit and the same is dismissed but without any order as to costs.

8. In consequence of the dismissal of this appeal the application being CAN 1 of 2024, CAN 2 of 2024 and CAN 3 of 2024 are hereby also dismissed.

9. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

I agree.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)