

25.11.2024
Court No. 18
Item No. 13
(Suvendu)

WPA 27402 of 2024

Deepanjana Das

-Versus-

The State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury

Ms. Shreyeta Mitra

.....for the petitioner

Mr. Sourav Mitra

.....for the WBCSSC

Ms. Koyeli Bhattacharyya

Mr. Bibek Dutta

Ms. Keya Panja

.....for the WBBSE

Mr. Rajat Dutta

Ms. Kakali Pal

.....for the State

Affidavit of service filed on behalf of the
petitioner is taken on record.

In order to substantiate case of the
petitioner for transfer on medical ground, order
of the Hon'ble Division Bench dated 12th
October, 2023 passed on intra-court appeal
being MAT 1821 of 2023 is relied upon.

It has been submitted by learned advocate
representing the petitioner that in terms of the
said order dated 12th October, 2023 an off-line
transfer application was preferred by the

petitioner on 4th November, 2023 on medical ground but the District Inspector of Schools (SE), Birbhum, being respondent no. 4 by wrongly treating the said transfer application of the petitioner as an application made on general ground instead of medical ground took steps in terms of Government Notification dated 3rd January, 2022 treating the petitioner as a single teacher in the subject in the school. It is submitted that in terms of the order of the Hon'ble Division Bench dated 12th October, 2023 when petitioner made application on medical ground for transfer concerned District Inspector of Schools ought to have taken steps upon treating the transfer application of the petitioner on medical ground and there was no necessity to take steps for transfer of the petitioner in terms of Government Notification dated 3rd January, 2022.

Learned advocate representing West Bengal Central School Service Commission submits since transfer application of the petitioner was forwarded by the respondent no. 4 upon treating the same not as an application for transfer on medical ground and it was found that 3rd January, 2022 notification was pressed

into service in view of non-availability of willing teacher in neighbouring schools, petitioner could not be transferred.

State respondents and West Bengal Board of Secondary Education are represented by learned advocates.

It has been submitted on behalf of the State respondents that the concerned District Inspector of Schools took steps in terms of the order of the Hon'ble Division Bench dated 12th October, 2023 which is reflected from the memo dated 21st November, 2023.

Having considered the respective submissions made on behalf of the parties and taking note of the materials available on record, it appears that respondent no. 4 treated the transfer application of the petitioner as an application made on general ground not on medical ground, therefore, thought it fit to follow Government Notification dated 3rd January, 2022. However, notification dated 3rd January, 2022 has no applicability in case of transfer application made by the applicant teacher on medical ground.

It needs to be recorded herein that by passing order dated 12th October, 2023, it was

not decided by the Hon'ble Division Bench that petitioner was required to file application for transfer on the ground of distance/ general ground and not on medical ground. Therefore, it was open to the petitioner to make transfer application accordingly and petitioner thought it fit to make transfer application on self-medical ground disclosing her ailment in the said application dated 4th November, 2023.

Therefore, respondent no.4 was required to treat off-line application of the petitioner dated 4th November, 2023 as an application on medical ground not an application on general ground.

In view of aforesaid discussion, decision of respondent no. 4 as contained in the memo dated 21st November, 2023 stands set aside.

Respondent no. 4 is directed to treat off-line application of the petitioner dated 4th November, 2023 as an application seeking transfer on medical ground and shall obtain report from the concerned Chief Medical Officer of Health by fortnight from the date of communication of this order on medical verification of the petitioner. If medical report justifies transfer of the petitioner, respondent

no. 4 shall forward transfer application along with medical report to the Chairman of West Bengal Central School Service Commission being respondent no. 3 by seven days thereafter. On receipt of transfer application from respondent no. 4, respondent no.3 shall decide transfer application of the petitioner uninfluenced by previous order dated 1st February, 2024 which is at page 37 of the writ petition by four weeks from the date of receipt of transfer application from respondent no.4. The decision to be taken by the respondent no. 3 shall be communicated to the petitioner by one week thereafter.

With the above observations and directions, 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 undertaking.

(Saugata Bhattacharyya, J.)

