

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

Before:

THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

W.P.A. 28020 OF 2024

Sadhana Dhara

VS.

The State of West Bengal & Ors.

For the Petitioner : Mr. Shuvro Prokash Lahiri
Mr. Rajes Naskar

For the State : Mr. Anirban Bose
Ms. Bineeta Bhattacharjee

For the WBCSSC : Ms. Supriya Dubey

Heard on: 03.12.2024

Judgment on: 03.12.2024

SAUGATA BHATTACHARYYA, J:

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

Petitioner has prayed for transfer on special ground as contemplated under amended Rule 4 of the West Bengal School

Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as the “said Rules”), as contained in the notification dated 8th September, 2021, by making an off-line application dated 19th September, 2024. According to the petitioner, said off-line application dated 19th September, 2024 should be treated as an application for transfer on special ground on three counts; namely distance in between place of residence of the petitioner and her school, petitioner being surplus teacher in her present school and age of child of the petitioner is eight years who requires care. Based on such off-line transfer application dated 19th September, 2024, petitioner prays for her transfer to a school which is nearby to her place of residence.

West Bengal Central School Service Commission and State respondents are represented by learned advocates who have opposed the prayer of the petitioner since petitioner has made transfer application in off-line mode but not on designated portal. It is also submitted on behalf of the respondents that since after initial appointment of petitioner on recommendation of West Bengal Central School Service Commission on 10th August, 2010 petitioner was mutually transferred to Dafarpur High School, Purba Burdwan on 11th September, 2018; further transfer of petitioner when portal is suspended based on off-line application, may not be allowed.

This Court while considering prayer of the petitioner needs to find out whether her off-line application dated 19th September, 2024 should be considered as application for transfer on special ground or not.

In order to examine the same, this Court is required to take into consideration amended Rule 4 of the said Rules of 2015, as contained in the notification dated 8th September, 2021. Amended Rule 4 reads as follows:-

“4. Grounds for transfer. – An incumbent may apply online in the designated portal for transfer on following grounds:

- (a) Any incumbent or his/her son/daughter/spouse suffering from malignant disease/severe heart disease/ renal failure/ thalassemia, replacement of organ/serious gynecological disorder causing serious problem in attending the school;
- (b) Physically disablement of 40% or more as certified by competent authority;
- (c) Female incumbent facing serious problem in attending the school due to divorce or death of husband;
- (d) Incumbent of age 57 years and more and willing for home district posting;
- (e) Any other reasons.”

On mere reading of the aforesaid amended Rule, it appears that a teacher can apply online in the designated portal for transfer

if the teacher concerned or his/her son/daughter/spouse is suffering from certain diseases, if applicant teacher is physically disabled to the extent of 40% or more, if applicant teacher is facing serious problem in attending the school due to divorce or death of husband, if age of the applicant teacher is fifty-seven years or more and willing for home district posting and lastly for any other reasons.

The expression under amended Rule 4(e) that is “any other reasons” is contended to be interpreted in a manner that would include present case of the petitioner for transfer since there is surplus teacher in her present school. It is true that there is an expression under amended Rule 4(e) that is “any other reason” which may qualify an application for transfer to be treated as a transfer application on special ground but all the reasons excepting reasons which are delineated under amended Rule 4(a) to Rule 4(d) cannot be treated to be covered by such expression “any other reasons”. On reading of amended Rule 4, it further appears that conditions stipulated under Rule 4(a) to Rule 4(d) postulates situation where applicant teacher is suffering for certain reasons as indicated therein. Therefore, rule of interpretation suggests that “any other reasons” needs to be treated as *ejusdem generis* in consideration of the reasons as delineated in amended Rule 4(a) to Rule 4(d) thereby permitting an applicant teacher to apply for

transfer on special ground, if such teacher is facing any problem in attending the school apart from reasons as stated under amended Rule 4(a) to Rule 4(d).

It is not the situation in the present case that for surplus teacher existing in the present school of the petitioner, she is facing difficulty to attend the school. It is not the concern of petitioner whether State authority shall retain surplus teacher in the school of the petitioner. Therefore, transfer application dated 19th September, 2024 ought not to be treated as an application made on special ground as envisaged under amended Rule 4, as contained in notification dated 8th September, 2021.

Hence, the off-line transfer application of petitioner dated 19th September, 2024 needs to be treated as a mere application on general ground (distance). This is not a case where petitioner or any other member of her family is suffering from serious ailments/terminal disease.

This Court also takes into consideration the fact that petitioner was mutually transferred on 11th September, 2018 and subsequently did not feel it necessary to file application for transfer on designated portal when portal was alive.

This Court does not find justification in directing the concerned respondent authorities to consider off-line transfer

application of the petitioner dated 19th September, 2024 when portal is suspended since that may lead to opening of flood gate.

In view of aforesaid discussion, writ petition stands dismissed.

There shall be, however, no order as to costs.

Urgent photostat certified copy of this judgment, if applied for, be given to the parties on usual undertakings.

(SAUGATA BHATTACHARYYA, J.)