

Item No.24
12.06.2024
Court. No. 2
GB

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION*

WPA 647 of 2024

Minmoy Das
VS
The State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury

...for the Petitioner.

*Mr. Subir Kumar Saha,
Mr. Kumar Shantanu*

...for the State.

Mr. Anirban Banerjee

...for the Respondent No.2.

*Mr. Sunit Kumar Roy,
Mr. Subhasish Misra*

...for the Respondent No.3.

The petitioner was appointed as an Assistant Teacher in Pure Science at Boxiganj Abdul Kader Sarkar High School on September 22, 2009. The service of the petitioner was approved on December 7, 2009. The residence of the petitioner is allegedly 84 kms. from his school. The petitioner suffers from some illness and he is finding it difficult to serve at a place which is so far away from his residence.

The petitioner applied for transfer, through online mode under the Utshasree protral on August 30, 2021 to the head of the institution. Although the head of the institution did not disclose any reason for rejection of the application for transfer, it is contended by the petitioner

that the application could not be entertained as the petitioner was the only teacher in Pure Science.

The petitioner contends that the school authorities could not return the application of the petitioner, but should have forwarded the same for proper consideration by the District Inspector of Schools. Only on the ground that the petitioner was a single subject teacher, the school authorities could not deprive the petitioner from having his transfer application considered.

Reliance has been placed on the notification issued by the Department of the School Education (Secondary Branch), Government of West Bengal dated January 3, 2022. By the said notification, it had been provided that in the event a single subject teacher makes an application for transfer, the School Managing Committee should not reject the application, but inform the District Inspector of Schools, Secondary Education about such application. The District Inspector of Schools, Secondary Education should immediately discuss the matter with the Commissioner of School Education and take urgent step in a time bound manner to search for a teacher on the same subject from a nearby school and make a local arrangement so that the said teacher can attend the school from which a teacher had applied for transfer, at least on some days of the week, on a temporary basis, till such time a permanent teacher in the same subject joins the school.

Under such circumstances and based on the clarification/notification of the State Government, the writ petition is disposed of by setting aside the decision of the School Managing Committee. The District Inspector of Schools shall treat the writ petition as a representation and consider the application already filed earlier, a copy of which has been annexed to the writ petition and take steps in accordance with the notification dated January 3, 2022 which is quoted below. The relevant portion of the notification is as follows:-

“In that event a single subject teacher makes application for transfer, the SMC will not reject the application and inform the DI(SE) about such application. The DI(SE) will immediately discuss the matter with the CSE in the DI(SE) will take urgent step in time bound manner to search for a teacher on the same subject from nearby and make local arrangement so that the teacher of the other school attends the schools wherefrom the teachers has applied for transfer on days of the weeks on a temporary basis till such time a permanent teachers subject joins. The DI(SE) will inform such arrangement to the CSE who shall inform the matter to the Chairman of WBCSSC, President of WBBSE and School Education Department, CSE will ensure such arrangement in 7 days.”

If the petitioner fulfils the criteria, the fact that the petitioner is a single teacher shall not be held against his transfer. The arrangement as necessary shall be made in accordance with the provision of the notification.

Once the District Inspector of Schools makes the arrangement, the matter will be informed to the Central School Service Commission and if the Central School

Service Commission finds the petitioner eligible for transfer, the matter will be recommended to the West Bengal Board of Secondary Education. The board will pass necessary orders. The vacancy position shall be shown to the petitioner in case the option of the petitioner is not available.

The entire exercise shall be completed within a period of two months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)