

04.01.2024  
Item No.33  
gd

WPA/2899/2023  
SUKANTA DAS  
VS  
THE STATE OF WEST BENGAL & ORS.

Mr. Sudip Ghosh Choudhury,  
Mr. Gopal Roy  
..for the Petitioner.

Mr. Anirban Banerjee  
..for the Respondent No.2.

Mr. Bikramaditya Ghosh,  
Ms. Supriya Singh  
..for the Respondent No.3.

The petitioner was appointed as an Assistant Teacher of Kalchini Hindi High School pursuant to the recommendation of the School Service Commission on 25<sup>th</sup> August, 2010.

The petitioner states that the distance from his residence to the school is about 736 Kilometer (one side) and the petitioner is also suffering from serious ailments. The petitioner applied for general transfer on distance ground through Utsashree Portal and such application was returned by the concerned Head of the Institution on the ground of single subject teacher.

The learned advocate appearing for the petitioner submits that such rejection of the application for transfer on the ground of single subject teacher cannot be sustained in view of the

order dated 13<sup>th</sup> December, 2023 passed by the Hon'ble Division Bench in MAT 2030 of 2023 in the case of Jadab Pal v. The State of West Bengal & Ors.

Heard Mr. Ghosh, learned advocate appearing for the School Service Commission and Mr. Banerjee, learned advocate appearing for the West Bengal Board of Secondary Education on such submission.

This court finds that the Hon'ble Division Bench in Jadab Pal (supra) held thus:

“3. Considering the fact that the interest of the student is a permanent consideration, we dispose of the appeal by directing the authority concerned to consider the application strictly in accordance with law under the relevant rules of transfer, as applicable to the appellant and in the event it is found that the petitioner/appellant is eligible for transfer, a suitable replacement should be found out within a reasonable time. However, the process for such replacement should immediately commence once a decision is taken in favour of the appellant.”

Therefore, in view of the aforesaid decision, this court is of the considered view that the rejection of the application for transfer of the petitioner on the ground of single subject teacher calls for interference and such decision is, accordingly, set aside and quashed.

Since it is not in dispute that Utsashree Portal is not presently functioning, this court permits the petitioner to file an application for transfer through off-line mode. If such application is filed by the petitioner, the District Inspector of Schools (SE),

Alipurduar is directed to consider the same in accordance with the relevant Rules, Regulations and Notifications and dispose of the same by passing a reasoned order and communicate the same to the petitioner immediately thereafter. The entire exercise by the concerned DI shall be completed within a period of four weeks from the receipt of a server copy of this order.

In the event the concerned DI decides in favour of the petitioner, the DI shall forward the application along with the decision of the DI to the Chairman, School Service Commission and the Chairman, School Service Commission, who shall act, accordingly, as expeditiously as possible but positively within a period of four weeks from the date of receipt of the papers from the concerned DI.

With the above directions, WPA 2899 of 2023 stands disposed of.

There shall be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

**(HIRANMAY BHATTACHARYYA, J.)**