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2025
Ct. No. 08

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MAT 31 of 2025
IA No. CAN 1 of 2025
IA No. CAN 2 of 2025

Sadhana Dhara
Vs.
The State of West Bengal and others.

Mr. Shuvro Prokash Lahiri.
... for the appellant.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey.
... for the WBCSSC.

The writ petition assailing the inaction on the part of the authority in considering the application for transfer is rejected by this Court on three grounds. Firstly, the petitioner/appellant joined the present school on mutual transfer basis and, therefore, an embargo is created in seeking a transfer within the mischief period as enshrined therein. Secondly, the contention that the expression “any other reasons” has to be given a pragmatic meaning and may not imbibe any other conditions, which are not specifically provided in the separate Rules. Thirdly, the application made offline should be treated as an application on general ground (distance) and since the petitioner/appellant did not utilize the online facilities, such application appears to be improper and afterthought.

We have been taken to the various provisions of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (in short “said Rules”) promulgated on 11th March 2015. Rule 3, which is relied upon by the Single Bench makes an incumbent eligible for general transfer only when he or she is confirmed in service and completed five years of satisfactory service in a particular school at the said post. Sub-rule (2) of Rule 3 though

couched in a negative manner, but conveys a laudable intention that the transfer on the ground of distance shall not be entertained within 25 kilometers between the two schools. Rule 4 as stood on the date of the promulgation also contained a ground of distance, as a right to claim transfer provided the teacher and non-teaching staff in aided/sponsored school is serving at a place, which is 50 kilometers away from the place of spouse.

Be that as it may, the petitioner/appellant was transferred to the present school on mutual basis. A conscious decision was taken by the petitioner/appellant realizing that the school where she seeks for transfer is at a distance yet agreed to be transferred on mutual basis.

We find that there is a prescribed form and the same is defined under Rule 2(e) of the said Rules to mean the forms appended to this Rules. Such form is duly prescribed and appended to the aforesaid Rules and, therefore, assumes an integral part of the said Rules to be strictly adhered to.

According to the Counsel for the School Service Commission, the applications were made not in the prescribed form but in the form of a letter, which is impermissible under the said Rules.

Though the aforesaid point does not appear to have been taken before the Single Bench, but as a pure question of law based on the admitted materials, we permitted the Counsel to take the said point, as it strikes at the root of the matter as well as entitlement of the petitioner/appellant to have the application for transfer to be considered in a manner as sought to be contended before this Court.

We are conscious of the proposition of law that once a thing is required to be done in a particular manner it should be done in such a manner and not otherwise. The moment the form is prescribed in the

Rules shaping into the integral part of the statutory provisions, it cannot be whittled down nor to be done away with at the behest of the beneficiary of the said Rules nor the other stakeholders of the said Rules can dispense with the strict adherence of such statutory norms.

The application does not appear to have been filed in the prescribed form appended to the said Rules and, therefore, it is not obligatory on the part of the authority to treat the same as valid. From such additional point, we find that the application filed by the petitioner/appellant for transfer does not deserve to be entertained by the authority being not in conformity with the provisions of the said Rules and, therefore, we do not find any infirmity in the order of the Single Bench in dismissing the writ petition.

The appeal and the connected application being CAN 2 of 2025 are dismissed.

However, it is open to the petitioner/appellant to make a fresh application for transfer in the prescribed form and in such event the authority will take a conscious decision as permissible in law.

Urgent Photostat certified copy of this order may be given to the applicants as priority basis.

(Harish Tandon, J.)

(Partha Sarathi Chatterjee, J.)

