

21.01.2025
Court No. 18
Item No. 14
(Suvendu)

WPA 913 of 2025
Bipul Sing Sardar
-Versus-

The State of West Bengal & Ors.

Mr. Shuvro Prokash Lahiri
Mr. Rajesh Naskar
Mr. Ankan Mondal
.....for the petitioner
Mr. Rudranil De
.....for the State
Mr. Sunit Kumar Roy
....for the WBCSSC

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

Petitioner, *inter alia*, has prayed for transfer on special ground from his present school to a nearby school to his residence since petitioner is suffering from disability which has been assessed as 65% by the competent authority of Deben Mahata Government Medical College and Hospital, Purulia. The Disability Certificate dated 18th May, 2022 is at page 33 of the writ petition and the off-line transfer application dated 6th September, 2024 is at page 91 of the writ petition.

In spite of service of notice upon the authority of Bamutore High School (HS), Bankura, said school authority is not represented.

It is true that petitioner was permitted to take mutual transfer in 2021 but that should not hinder further transfer of the petitioner in

terms of substituted Rule 3(1) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 as contained in the notification dated 21st December, 2021 which contemplates for seeking transfer in terms of amended Rule 4(a) to Rule 4(d), completion of five years service in the present school shall not be applicable to the applicant teacher provided he/she has completed overall five years service.

Amended Rule 4(b) as contained in notification dated 8th September, 2021 is found to be applicable in case of transfer of the petitioner since it contemplates physical disablement upto 40% or more certified by the competent authority makes the applicant teacher eligible to get benefit of transfer. However, vide notification dated 21st December, 2021 extent of disability has been enhanced from 40% to 60% as minimum disability which has been provided under substituted Rule 4(b).

In the present case, it is contended based on Disability Certificate dated 18th May, 2022 that petitioner is suffering from 65% disablement.

In view of aforesaid discussion, as a special case District Inspector of Schools (SE), Bankura, being respondent no. 6 is directed to consider the off-line transfer application of the petitioner dated 6th September, 2024 on obtaining medical report from the concerned Chief Medical Officer of Health on medical verification of the petitioner by three weeks from the date of communication of this order.

Respondent no. 6 shall also obtain views of the authority of Bamutore High School (HS), Bankura relating to transfer of the petitioner and if it is found that petitioner is eligible to get the benefit of transfer under amended Rule 4(b) as contained in notification dated 8th September, 2021 read with notification dated 21st December, 2021, the respondent no. 6 shall forward the transfer application of the petitioner along with medical report, Disability Certificate and view of the concerned school authority to the Chairman of West Bengal Central School Service Commission being respondent no. 4 within three weeks thereafter. On receipt of transfer application along with necessary documents, respondent no.4 is directed to take final decision on transfer application of the petitioner by four weeks thereafter and decision to be taken by the respondent no. 4 shall be communicated to the petitioner by ten days thereafter.

It is made clear that suspension of Utshasree portal shall not be a ground to reject the transfer application of the petitioner and petitioner's transfer application shall be decided in off-line mode.

Writ petition stands disposed of.

There shall be 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.)