

22.01.2025
Court No. 18
Item No. 21
(Suvendu)

WPA 1253 of 2025

Prasenjit Majumdar

-Versus-

The State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury
Ms. Shreyeta Mitra
.....for the petitioner

Mr. D. Sarkar
.....for the State

Ms. Koyeli Bhattacharya
Mr. Bibek Dutta
Ms. Keya Panja
...for the WBBSE

Mr. Kanak Kiran Bandyopadhyay
....for the WBCSSC

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

Matter relates to transfer of the petitioner
since spouse of the petitioner is suffering from
ailment.

In reference to a document at page 20 of
the writ petition, it is submitted that application
for transfer was made on Utsashree portal on
24th August, 2022 and after processing the

transfer application first by the school authority where petitioner is working and subsequently by the concerned District Inspector of Schools, transfer application was forwarded to the West Bengal Central School Service Commission (for short, "Commission") through portal on 29th September, 2022 but till date same has not been decided by the Commission.

Petitioner prays for direction upon the Commission to take decision on transfer application.

Mr. Kanak Kiran Bandyopadhyay, learned advocate representing the Commission has opposed the prayer of the petitioner on the ground that petitioner joined the post of Headmaster first on lien with effect from 25th September, 2019 and subsequently petitioner's service as Headmaster was permanently approved with effect from 7th August, 2020 by the concerned District Inspector of Schools vide memo dated 10th December, 2020. According to the Commission, service of the petitioner as Headmaster should be considered separately with effect from his date of appointment as Headmaster notwithstanding service which petitioner rendered as Assistant Teacher in

another school. It is further submitted that if service of the petitioner is taken into consideration as Headmaster from 25th September, 2019 in that event also petitioner is barred by amended Rule 3(1) of the notification dated 21st December, 2021 whereby the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 was amended. According to the Commission, since petitioner did not complete five years of service as Headmaster on the date of applying on portal for transfer on 24th August, 2022 he is not eligible for transfer in consideration of the provisions as contained under amended Rule 3(1) of the notification dated 21st December, 2021.

During course of submission, learned advocate representing the petitioner has relied upon order of the Hon'ble Division Bench dated 24th August, 2023 passed on intra-court appeal being **MAT 782 of 2023 (Suvadip Ghorai Vs. State of West Bengal & Ors.)** and it is submitted that amended Rule 4(a) of notification dated 8th September, 2021 should be read independently since in terms of Rule 4(a) due to

certain diseases applicant teacher can be transferred as a special case.

Having considered the submissions made on behalf of the parties, it appears that the issue is covered by the ratio of **Suvadip Ghorai** (supra) wherein Hon'ble Division Bench has made following observations.

“4. The Rule 4 is a stand alone provision unconnected with the mandatory requirement of Five Years' of satisfactory service contemplated under Rule 3 of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015.”

In addition thereto, this Court is required to consider amended Rule 3(1) of the notification dated 21st December, 2021 which is also quoted below:-

“(1) An incumbent shall be eligible for General Transfer only if he/she is confirmed in service and completed 5(five) years of satisfactory service in that particular school from which he/she seeks General Transfer. However, for seeking transfer on grounds mentioned in clauses (a) to (d) of rule 4, completion of 5 years of service in the present school shall not be

applicable to the applicant, who has completed overall five years in the service."

(Emphasize supplied)

Aforesaid amended Rule 3(1) contemplates two situations. Firstly, it has been provided that in case of general transfer applicant teacher has to render five years of satisfactory service in a particular school from where transfer is sought for. Second part of the said Rule provides exemption from such requirement of rendering five years of satisfactory service in the last school wherefrom applicant teacher is seeking transfer provided the applicant teacher completed overall five years in the service. The expression "overall" has wide connotation. It has not been specified in second part of amended Rule 3(1) that the applicant teacher has to render service in a particular post or cadre for a period of five years, rather requirement is rendering overall five years service.

Use of expression "overall" goes in favour of the petitioner and makes him eligible to pray for transfer in spite of fact that petitioner after his appointment in the post of Headmaster on

and from 25th September, 2019 made application for transfer on 24th August, 2022 which is before completion of five years service as Headmaster.

Fact remains prior to appointment of petitioner as Headmaster with effect from 25th September, 2019 without any break he rendered service as Assistant Teacher and that period of service being an Assistant Teacher needs to be taken into consideration due to use of expression “overall” in amended Rule 3(1) of the notification dated 21st December, 2021.

Hence, Chairman of the Commission being respondent no. 3 is directed to take decision on transfer application of the petitioner without raising objection that petitioner has not completed five years of continuous service as Headmaster within a period of six weeks from the date of communication of this order. The decision to be taken by respondent no.3 shall be communicated to the petitioner by one week thereafter.

Transfer application of the petitioner shall not be rejected on the ground of suspension of Utshasree portal.

With the above observations and direction,
writ petition stands disposed of.

There shall be, however, 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.)