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19.5.2025
Ct. No. 8
SB

MAT 64 of 2025
CAN 1 of 2025
CAN 2 of 2025

Piyali Goswami
Vs.
The State of West Bengal & Ors.

Mr. Shuvro Prokash Lahiri
Mr. Rajesh Naskar
Mr. Indrani Roy ... for the appellant

Ms. Sulagna Bhattacharyya
Mr. Soumik Dey ... for the State

Mr. Sunit Kr. Roy ... for the S.S.C.

CAN 1 of 2025 (Section 5)

1. There is a delay of 58 days in filing the appeal.
2. We are satisfied with the explanation offered for not being able to file the appeal within the period of limitation. The delay of 58 days is condoned.
3. Accordingly, the application for condonation of delay is allowed and disposed of.

MAT 64 of 2025

4. The appeal is arising out of an order dated 18.11.2024 in a matter relating to transfer of the appellant on the ground of distance in between the present school of the appellant / petitioner and the place of her residence. The application for transfer was made on 12.8.2021 and followed by a further representation dated 01.10.2021. The fate of the said application is yet to be decided. The said application was rejected on the ground that the D.I. of Schools (SE) Bankura is unable to find out a willing teacher even temporarily to fill up the vacancy that might result by reason of transfer of the

petitioner / appellant. During the pendency of the proceeding Government notification dated 03.01.2022 was published and the said notification has taken care of the right of a single teacher to avail transfer. It appears that the said government notification dated 03.01.2022 which contemplates making local arrangement in the school of the petitioner / appellant which would facilitate the petitioner's transfer to other school was considered and the D.I. has filed a report before the learned Single Judge dated 22.11.2024 in which the D.I. has stated the following;-

"With reference to the above, this is to inform you that Smt. Piyali Goswami, A.T., Nutrition subject in H.S. section of Sibdas Central Girls' High School, P.O.-Bishnupur, Dist. Bankura has submitted an application for General Transfer at HOI end through Utsashree Portal.

The Hon'ble Justice Saugata Bhattacharyya of Calcutta High Court has passed an Order on 18.11.2024 in W.P.A. No. – 21215 of 2023, Piyali Goswami – Vs – The State of West Bengal and Ors. Inter alia directing the District Inspector of Schools (S.E.), Bankura to make an endeavour to find out willing teacher of a neighbouring school who can man the post of the petitioner temporarily till regular incumbent joins the resultant vacancy to be created on transfer of the petitioner.

Hence, he / she is requested to let this office know whether there is any Assistant Teacher (Female) in Nutrition in H.S. Section in his / her school who is willing to render the service from her present school for 2-3 days in a week to the said school on temporary basis till such time permanent teacher joins in that subject. The reply must be made within 15(fifteen) days from the date of receipt of this letter."

5. The school in which the petitioner / appellant is presently teaching has issued N.O.C.
6. The learned Single Judge, disposed the said writ petition directing the respondent no. 5 to make an endeavour to find out 'willing teacher' of the neighbouring school who can man the post of the petitioner temporarily till regular incumbent joins that resultant vacancy to be created on transfer of the petitioner. The observation of the learned Single Judge that if

the respondent No. 5 finds a willing teacher who can take classes in the school of the petitioner temporarily and in that event only the application for the petitioner of transfer would be processed, if it is found as 'fit case' in terms of the said notification dated 03.01.2022 has been questioned in this appeal.

7. It appears that, on 27.10.2021 the D.I. Schools (S.E.) Bankura to the HM / TIC, Kusumbani Jamunadas Khemka High School, Bankura with a query that if a suitable teacher would be available on a temporary basis so as to facilitate the transfer of the present writ petitioner. The D.I. Schools (S.E.) Bankura has never found that it is not a fit case for transfer. However, it appears that Kusumbani Jamunadas Khemka High School, Bankura has declined the said offer and communicating a decision that teacher concerned would be unable to undertake to such travelling due to Orthopedic reason as presently advised. From the report it cannot be said that the D.I. has not made attempt to find out a suitable teacher on temporary basis to facilitate the transfer. However, the fact remains that once the petitioner is eligible for a transfer he / she cannot be denied such transfer for an indefinite period and steps are to be taken within a time bound manner as specifically mentioned in the notification itself.
8. In a co-ordinate Bench decision in MAT 1218 of 2024 the Hon'ble Division bench has observed that the said notification passed over a statutory duty on the D.I. of Schools of the district concerned to make an alternative arrangement within a time bound manner. The said notification does not

contemplate that unless a willing teacher volunteers to join the school even on a temporary basis, the application for transfer of an eligible teacher would not be allowed at all and is dependent upon the willingness of the teacher.

9. In the instant case, more than four years have passed since the application has been made. However, the same time, we cannot ignore the welfare of the students who suffered in the event the teacher is transferred without post being filled up even on a temporary basis with a fresh drive for recruitment if necessary for the said post.
10. On such consideration, we direct the D.I. Schools (S.E.) Bankura to act strictly in terms of the notification dated 03.01.2022 and take immediate steps for filling up the said vacancy, if required, a fresh recruitment positively within a period of four months from date.
11. The impugned order is modified to the aforesaid extent.
12. With the aforesaid direction, the appeal and applications are disposed of.
13. However, there shall be no order as to costs.

(Soumen Sen, J.)

(Smita Das De, J)