

03.04.2025
Court No. 18
Item No.220 ML
(Suvendu)

WPA 1314 of 2024

Piu Patra
-Versus-

The State of West Bengal & Ors.

Mr. Sakti Pada Jana
Ms. Sudipta Pramanik
Mr. Subhajyoti Das
.....for the petitioner

Mr. Pinaki Dhole
Mr. Sayan Datta
....for the State

Mr. Koyeli Bhattacharyya
Mr. Bibek Datta
Ms. Keya Panja
....for the WBBSE

Mr. Sunit Kumar Roy
....for the WBCSSC

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

Petitioner's application for transfer on
medical ground was considered by the
concerned authority of West Bengal Central
School Service Commission (hereinafter referred
to as "Commission") in terms of order of the
Hon'ble Division Bench dated 3rd August, 2023
passed on an intra-court appeal being MAT 506
of 2023.

Mr. Jana, learned advocate representing
the petitioner submits that since Hon'ble

Division Bench directed the Commission to consider the transfer application of the petitioner under Rule 6(4)(d) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as “said Rules of 2015”) as amended vide notification dated 8th September, 2021, instead of recommending the petitioner to a vacancy in third preference school the Commission ought to have explored possibility of recommending the petitioner either to a vacancy in first preference school or to a vacancy in second preference school. According to the petitioner straightway recommending the petitioner for transfer to third preference school vide memo dated 3rd October, 2023, is erroneous.

Petitioner prays for direction for consideration of his candidature for transfer either against a vacancy in first preference school or against a vacancy in second preference school.

Respondents are represented by learned advocates.

Mr. Roy, learned advocate representing the Commission has opposed the prayer of the petitioner based on observations made by the

Hon'ble Division Bench in the order dated 3rd August, 2023 passed in MAT 506 of 2023. It is submitted that steps have been taken by the Commission by recommending the petitioner for transfer vide memo dated 3rd October, 2023 in terms of the Rule 6(4)(d) of the said Rules of 2015 as amended vide notification dated 8th September, 2021 and there is due compliance of the direction of the Hon'ble Division Bench as contained in the said order dated 3rd August, 2023.

Having considered the submissions made on behalf of the parties, it is found that petitioner made application for transfer on medical ground indicating three schools in terms of preference. However, while considering the transfer application of the petitioner by the Commission in terms of order dated 3rd August, 2023, it was found that all vacancies in those schools were not available. Petitioner was granted opportunity to prefer three other schools in terms of direction of the Hon'ble Division Bench dated 3rd August, 2023, based on which petitioner was recommended for transfer to a post in Durgapur Rai Rani Devi Girls High School, Purba Bardhaman.

For better understanding of the issue, paragraphs 6 and 7 of the order dated 3rd August, 2023 passed by the Hon'ble Division Bench is quoted below:-

- "6. We have heard the learned Counsel for the respondents. It has been fairly submitted that the case of the writ petitioner can be considered under Rule 6(4)(d) of the said Rule subject to the availability of any vacancy and without insisting on the ground of distance.
7. We are of the view that the application is required to be considered due to medical reasons as it appears that the application of the petitioner for transfer on medical ground have not been accepted earlier. The authority concerned shall consider the said application on medical ground and decide the matter in accordance with law in exercise of its power under Rule 6(4)(d) of the said Rule."

In terms of the order dated 3rd August, 2023, the Commission is required to consider the transfer application of the petitioner in terms of Rule 6(4)(d) of the said Rules of 2015 as amended vide notification dated 8th September, 2021.

Rule 6(4)(d) contemplates a situation where it is found when all options exercised for

transfer are not found suitable the applicant teacher may be considered for transfer to a school (having requirement of that subject teacher) nearby to opted school(s).

It is specifically observed by the Hon'ble Division Bench in the order dated 3rd August, 2023 that there is requirement to consider the transfer application of the petitioner in terms of Rule 6(4)(d) subject to availability of any vacancy and without insisting on the ground of distance.

The Commission in terms of observation of the Hon'ble Division Bench when found that vacancies were not available in the schools which were preferred by the petitioner in the transfer application permitted petitioner to prefer three other schools based on which recommendation was made for transfer of the petitioner to Durgapur Rai Rani Devi Girls High School, Purba Bardhaman. Therefore, it appears that the Commission has taken steps in terms of observation made by the Hon'ble Division Bench in the order dated 3rd August, 2023 in the light of the provisions as contained in Rule 6(4)(d).

Before parting with, it needs to be recorded that in terms of recommendation dated 3rd October, 2023 for transfer of the petitioner

Secretary, West Bengal Board of Secondary Education issued transfer order dated 13th October, 2023 and petitioner has joined the transferred post.

Hence, further exercise in order to find out possibility to transfer the petitioner to a vacancy in any of the two schools which were preferred along with third school at the time of consideration of petitioner's transfer application is not necessary.

Writ petition stands dismissed.

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.)