

07.02.2025

sayandeep

Sl. No. 96

Ct. No. 08

MAT 128 of 2025

With

CAN 1 of 2025

Mousumi Malick

Vs.

The State of West Bengal & ors.

Mr. Sudip Ghosh Chowdhury

Mrs. Shreyeta Mitra

... for the appellant

Ms. Koyeli Bhattacharyya

Ms. Keya Panja

Mr. Bibek Dutta

.... for the WBBSE

Mr. Sourav Mitra

....for the CSSC

Mr. Binay Kr. Panda

Mr. Raju Mondal

Mr. S. K. Bhakat

....for the respondent No. 5

The point is taken by the appellant that the Judgment of the Single Bench, founded upon the notion that the appellant is the single teacher, is factually and/or legally incorrect on the admitted fact that there are two teachers teaching mathematics in the school. Admittedly, there are two teachers one having an honours qualification at graduate level in mathematics and the appellant possessed post graduate degree in the mathematics and teaching class-XI and XII.

The stand of the respondents before the Single Bench as well as this Court is that she is the only teacher in mathematics imparting education to the students admitted in class-XI and XII and, therefore, to be regarded as a single teacher for the aforesaid sections.

We are unable to comprehend such notion when the recruitment was initiated in the year 2013. The amendment having brought to the control of expenditure act in the year 2017 postulates that the

post graduate degree holder in the subject teaching class XI and XII will be entitled to the scale of pay attached to the said qualification and shall not be entitled to any increment. Such amendment having brought in the year 2017 does not indicate that the post graduate degree holder would be regarded as a teacher for class XI and XII as we do not find any fatter in taking the class by a graduate with honours in the said subject. The only embargo by way of an amendment is the entitlement of the scale of pay attributable to a post graduate degree holder and does not impinge upon an absolute notion that the post graduate degree holder can only take class XI and XII.

We are conscious that by virtue of a notification dated 3rd January, 2022, the Government have decided not to reject the application on the ground of single teacher but entrusted the responsibility on the D.I. of respective District to make an alternative arrangements to ensure seamless imparting of an education to the students in the subject. The expression “fit cases” has been interpreted by this Court in a pragmatic manner and a discretion is conferred upon the authority to take a decision in this regard depending upon the facts of each case. We find substance in the submission of the appellant that the notification dated 3rd January, 2022 is only applicable to a case of a single teacher and not when there are more than one teacher in the said school.

Reverting to the facts of the case, we find that an application for transfer was sought on the ground of distance which is one of the facets of transfer under the statutory Rules. Merely because a teacher is facing inconvenience because of a longer distance to be covered to attend the school does not always put the teacher to an inconvenience as it depends upon the several factors to be taken into account. We have been given to understand that the appellant is taking classes

of mathematics in class XI and XII and the Board examinations are scheduled to be held within two or three months from date. We are conscious that complete lack of the teacher or reduction in the number of teacher in a particular subject may hamper the teaching of a subject and, therefore, a balance is required to be made in this regard.

We, therefore, direct the authorities to consider the application for transfer filed by the appellant as there are more than one teacher in the said school and in the event, the authorities feel that the grounds of transfer has a substance, it will not give effect to the order of transfer until the new incumbent joined the said school in the relevant subject.

Such direction is passed taking into account the plight of the students who are pursuing their study in mathematics subject as any disruption before the Board examinations would cause an immense loss to their academic career.

Accordingly, appeal and the connected application are disposed of.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)