

W.P.A. 2069 OF 2025

**Archana @ Archana Tiwari
Vs.
The State of West Bengal & Others**

Mr. Firdous Samim, Adv.
Ms. Gopa Biswas, Adv.
Ms. Swati Dey, Adv.
Mr. Saikat Mallick, Adv.
Mr. Hasanuz Zamin Molla, Adv.
Mr. Mainak Ghosal, Adv.

...for the Petitioner

Mr. Biswabrata Basu Mallick, AGP.
Ms. Parna Roy Chowdhury, Adv.

...for the State

Dr. Sutanu Kumar Patra, Adv.
Ms. Supriya Dubey, Adv.

...for W.B.C.S.S.C.

Matter is heard in presence of the learned advocates representing the petitioner, State respondents and West Bengal Central School Service Commission.

Commission has filed a report in the form of affidavit affirmed on 4th March, 2025 and an affidavit affirmed on 29th April, 2025, taking exception to the report of the Commission has been filed by the petitioner. Both the pleadings are taken into consideration while examining the issue involved in this writ petition.

Petitioner participated in 1st State level selection Test, 2016 (Upper Primary) and ranked 1st in the waiting list under male/ female category (Hindi medium). Petitioner was asked to participate in the counseling process conducted by the Commission on 19th December, 2024 and was allotted vacancy of an Assistant Teacher in Jamuria Balika Vidyalaya, Paschim Bardhaman. Petitioner has joined the post of Assistant Teacher in

Jamuria Balika Vidyalaya in terms of recommendation dated 19th December, 2024. However, learned advocate representing the petitioner prays for direction upon concerned authority of the Commission to issue fresh recommendation, which would permit the petitioner to join the post of Assistant Teacher in Rishra Vidyapith, Unit-II, HS (Co-Ed), Hooghly.

In support of the case made out in the writ petition, it is submitted that vacancy in Rishra Vidyapith is available since recommended candidate did not join the post which confers right upon the petitioner to be recommended for the post of Assistant Teacher in the said school.

To buttress such submission, reliance is placed on Rule 17(5) of West Bengal School Service Commission (Selection for Appointment to the Posts of Teachers for Upper Primary Level of Schools) Rules, 2016 (hereinafter referred to as '*2016 Rules*'). It is submitted that Rule 17(5) confers right upon the petitioner to be recommended against the post which is not filled up due to non-joining even after recommendation of petitioner.

Learned advocate representing the West Bengal Central School Service Commission has opposed the writ petition based on facts that the petitioner at that time of counseling on 19th December, 2024 accepted the post of Assistant Teacher in Jamuria Balika Vidyalaya and

submitted an undertaking by putting her signature, which is at page 8 of the report filed on behalf of the Commission.

In addition thereto attention of this Court has also been drawn to page 64 of the writ petition wherefrom it transpires that by submitting a letter petitioner assured the concerned authority of the Commission that she would join the post of Assistant Teacher in Jamuria Balika Vidyalaya and it was further requested that said letter be treated as consent letter for joining of the petitioner. It is further submitted that petitioner has joined the post of Assistant Teacher in Jamuria Balika Vidyalaya during pendency of this writ petition.

For better understanding of the issue Rule 17(5) of 2016 Rules is quoted below:

“(5) If –

- (a) a candidate refuses to accept his/ her allotment of post during counseling, or*
- (b) the Central Commission gets information from any school or from the District Inspector of Schools (Secondary Education), or otherwise, that a candidate recommended for appointment has not accepted the offer of appointment or join the post within the stipulated period, or*
- (c) such a candidate refuses to accept appointment, or*

(d) *on further scrutiny it appears that the candidate has misrepresented the facts,*

the Central Commission may do away with his name from the panel and will be deemed to have been depanelled and recommend the name of a candidate from the waiting list strictly within the validity period of the panel and waiting list.”

On perusal of Rule 17(5) it does not show that same comes in aid of the petitioner conferring right upon her to be considered for appointment against a vacancy which arises due to non-joining, since petitioner has already joined the post of Assistant Teacher in Jamuria Balika Vidyalaya in terms recommendation memo dated 19th December, 2024.

Purport of Rule 17(5) postulates a situation where in case of refusal of a candidate to join the post after said post is allotted on participation in counseling; two consequences are contemplated as delineated under Rule 17(5). Firstly, in case of non-joining even after allotment of post, the Commission may do away with the name of such candidate from the panel and will be deemed to have been depanelled and secondly, recommendation by the Commission of a candidate from the waiting list within the validity of the panel and waiting list.

In the present case at my hand, petitioner being first wait listed candidate under a particular category, has already been recommended *vide* memo dated 19th December, 2024 and joined the said post. Therefore, recommending the petitioner further against one of the non-joining posts on applying Rule 17(5) of 2016 Rules does not arise.

Hence, writ petition stands dismissed.

However, there shall be no order as costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)