

22.04.2025
Court No. 18
Item No. 04
(Suvendu)

WPA 7329 of 2025

Priyanka Sarkar
-Versus-

The State of West Bengal & Ors.

Mr. Shuvro Prokash Lahiri
Mr. Rajesh Naskar
Ms. Indrani Roy
Mr. Ankan Mondal

....for the petitioner

Mr. Arindam Chattopadhyay

...for the DPSC, Nadia

Mr. Avishek Prasad

.... DPSC, Malda

Mr. Ratul Biswas
Mr. Kaushik Chowdhury

....for the WBBPE

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

Petitioner made an application on 10th
February, 2025 seeking transfer from one primary
school to another. First ground of her transfer
application is distance and it is spelt out in the
transfer application that distance in between the
present school of the petitioner and her place of
residence is 160 km. Second ground of her transfer
application is her ailment.

It is submitted on behalf of the petitioner that since application was made on medical ground completion of five years approved service from the date of appointment as contemplated under Rule 4(b) of the West Bengal Primary Education (Transfer of Teachers including Head Teacher) Rules, 2002 (hereinafter referred to as “said Rules of 2002”) as amended vide notification dated 13th September, 2021 is required to be relaxed. In support of such submission, reliance is placed on the order dated 24th August, 2023 passed in intra-court appeal being **MAT 782 of 2023 (Suvadip Ghorai Vs. State of West Bengal & Ors.)**. Relying on order dated 24th August, 2023, it is submitted that Hon’ble Division Bench has held that Rule 4 is a standalone provision unconnected with the mandatory requirement of five years of satisfactory service as contemplated under Rule 3 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”). Therefore, decision in **Suvadip Ghorai** (supra) is applicable in the present case in order to permit the petitioner to take transfer on medical ground though petitioner has not completed five years of approved service.

Learned advocates representing respondents have opposed the writ petition on the ground that in terms of Rule 4(b) of said Rules of 2002 as amended vide notification dated 13th September, 2021 condition of five years approved service is a pre-condition for seeking transfer from one primary school to another irrespective of reasons assigned in the transfer application. In the present case, petitioner was appointed as a primary teacher on 19th July, 2021 and transfer application was made on 10th February, 2025 before completion of five years approved service.

Having considered the submissions made on behalf of the parties, this Court is required to find out whether ratio of **Suvadip Ghorai** (supra) is applicable in the present case or not. The decision of the Hon'ble Division Bench in **Suvadip Ghorai** (supra) is in the context of Rules 3 and 4 of said Rules of 2015 which is applicable in the case of teachers working in secondary schools. Moreover, in the subsequent notification dated 8th September, 2021 amending said Rules of 2015 under Rule 6 exception has been carved out in case of application seeking transfer on medical ground but the case at my hand relates to transfer of a primary teacher which is required to be examined in terms of said

Rules of 2002 as amended vide notification dated 13th September, 2021.

Under Rule 4(b) of said Rules of 2002 as amended vide notification dated 13th September, 2021 it has been specifically provided that applicant-teacher in case of single transfer has to complete minimum five years of continuous service being a confirmed teacher. Unlike provisions applicable in case of secondary school teachers as provided under amended rule 6 of notification dated 8th September, 2021 amending said Rules of 2015 no exception is carved out under said Rules of 2002 as amended vide notification dated 13th September, 2021 for considering transfer application of a primary teacher made on medical ground.

It is submitted that this is a case of transfer from one district to another which requires to be considered in terms of Rule 8 of said Rules of 2002 as amended vide notification dated 13th September, 2021 wherein it is provided that while considering inter-council transfer in accordance with the provisions of Clause (k) of Section 19(1) of the West Bengal Primary Education Act, 1973, West Bengal Board of Primary Education shall *mutatis mutandis* follow the provisions of said amended Rules of 2002.

Therefore, the provisions relating to transfer of a primary teacher based on application made on

medical ground is not akin to the provisions which are applicable in case of secondary teachers and as such ratio of **Suvadip Ghorai** (supra) does not come in aid of petitioner.

Furthermore, on perusal of the transfer application dated 10th February, 2025 it does not appear that this is an application for transfer solely on medical ground, rather first reason which has been assigned for transfer is distance in between the present school of the petitioner and her place of residence.

No case has been made out that it is an exceptional case requiring court of equity to pass necessary order.

Hence, writ petition stands dismissed.

However, this order shall not preclude the petitioner to make transfer application after completion of service of five years as confirmed primary teacher.

There shall be 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.)

