

25.06.2025
(D/L-25)
Ct. No.4
(B.K.N.)

W.P.S.T. 109 of 2025

**Fulchand Sk
Vs.
The State of West Bengal and Others**

Mr. Manujendra Narayan Ray,
Mr. Biswarup Nandy
...for the Petitioner

Mr. Jahar Lal De, Ld. AGP,
Mr. Shamim Ul Bari
...for the State

1. The petitioner was the applicant before the Tribunal working as an Assistant Inspector of Schools. He was transferred to Lalbag Sub Division of Murshidabad District on 21.09.2021, where he has joined and thereafter approached the Commission of School Education (Respondent No. 3) for consideration of his claim for a transfer with a request that he may be transferred to a place as per preference communicated to the authority. The transfer has been requested by the petitioner claiming to be suffering with visual impairment to the extent of 40 per cent. It is the case of the petitioner that in view of such disability he is facing great difficulty in attending to his duties at the office on account of distance required to be travelled on a day to day basis. He has place reliance upon decision of Ministry of Personnel Public Grievances and Pensions, Department of

Personnel & Training and the orders issued by the authorities in light thereof. As per the order issued by the High Education Department in this regard on 05.03.2020 the petitioner being physically challenged is entitled to consideration of posting at a place near to his family as per choice expressed by him.

2. Learned State counsel submits that the order/policy being relied upon does not vest an indefeasible right to the petitioner as the order is clear in its intention that such request are to be considered, provided there is any scope for the purpose.
3. We, however, find that the Tribunal has proceeded to dispose of the petitioner's claim by its order dated 15.05.2025 as if the petitioner has raised an issue regarding some transfer order. The petitioner has not assailed any transfer order. The consideration of the Tribunal is misplaced. The petitioner in fact has claimed a transfer based on the policy claiming the benefit in view of his visual impairment. The request is required to be considered by the authority. Having regard to the petitioner's disability in the proper perspective and in terms of the order dated 05.03.2020 issued by the Higher Education Department.
4. The order of the Tribunal has proceeded on an erroneous premise and, therefore, is unsustainable and is hereby set aside. Since the petitioner's

representation in this regard made on 05.10.2023 is pending before the respondent no. 3, the same is required to be considered and disposed of in accordance with law. Let the same be done by passing a reasoned and speaking order within four weeks from date of receipt/production of a copy of this order before the respondent no. 3.

5. The writ petition stands allowed in these terms.

6. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)