

WPA 15573 of 2022

11.4.2025
ct.25, sl. 74
sk

Pijush Kanti Mondal
vs
The State of West Bengal & Ors.

Md. Manowar Ali
...for the petitioner.

Mr. Tapas Kr. Adhikari
...for the State respondents.

Mr. Sunit Kr. Roy
...for the SSC.

Mr. Ali, learned advocate for the petitioner seeks leave to add the Chairman, Central School Service Commission, Murshidabad as a party respondent in the present writ petition.

Leave is granted.

The matter relates to the application of transfer of the writ petitioner which has been rejected earlier by the school authority for the reason:

“only one member of the spouse may apply for (General Transfer on Special Grounds) General Transfer Rule, 2015, Clause 4 Sub-Clause 4 (c).

As your spouse has already been transferred in this ground, “you are not eligible for it”.

Mr. Ali, learned advocate appearing for the petitioner has submitted that the petitioner and his spouse are both assistant teachers.

The spouse of the petitioner has admittedly been transferred on her medical grounds, on her own seeking.

Now the petitioner has applied for his transfer before the school authority on the medical grounds of his spouse.

Mr. Ali would say that after amendment of the General Transfer Rules, vide notification dated September 8, 2021, the embargo which was earlier there restraining the spouse of the teacher, who has been transferred on medical ground, for seeking transfer again for medical grounds of his spouse, has been amended. According to Mr. Ali, there is no such embargo at present in terms of the notification of 2021, which is the prevalent law at present to govern the field. Hence, according

to Mr. Ali, an order may be passed directing the school authority to forward the application for transfer of the petitioner on the medical ground of his spouse, to the West Bengal Central School Service Commission and also a direction upon the West Bengal Central School Service Commission, to recommend similarly before the competent authority to effect transfer order.

Mr. Sunit Kr. Roy, learned advocate appearing for the School authority has ascertained the fact that previously wife of the petitioner was transferred on her own seeking on medical ground.

Mr. Adhikari, learned advocate appears for the State respondent.

Having heard the learned counsels and having perused the records available, it appears that previously application of the present writ petitioner was turned down by the school authority on the basis of the provisions under General Transfer Rules, 2015 which was prevalent earlier.

The General Transfer Rules, 2015 has been amended by dint of the Rules notified on September 8, 2021.

According to Rule 4(a) of the notification dated September 8, 2021 a person may be transferred on the ground of his/her, son/daughter/spouse. The provision is as follows: ***“Any incumbent or his/her, son/daughter/spouse suffering from malignant disease/severe heart disease renal failure/thalassemia replacement of organ/serious gynecological disorder causing her problem in attending the school”.***

On a plain reading of the said provision under the notification dated September 8, 2021, it appears that a person on the medical ground of his spouse would be entitled to seek and get an order of transfer and there would not be any embargo for the same. A teacher, whose spouse might have been transferred on his or her medical ground is not expressly excluded or restrained to seek similar order for the reason of his spouse's illness. Hence, the Court finds that the petitioner's application as above, suffers from no inherent disqualification or ineligibility.

Under such circumstances, the Court finds it proper to dispose of the present writ petition with the following directions:-

- i) The previous decision of the School authority as mentioned above rejecting the petitioner's prayer for transfer on the ground as mentioned above, is set aside;
- ii) Let the application of the writ petitioner, seeking transfer, as has been submitted through the web portal, be taken up by the School authority for consideration, (if necessary, in manual and offline mode), for a decision afresh as regards the same, in the light of the provision contained in notification dated September 8, 2021;
- iii) An order should be passed stating the reasons, if not such application of the writ petitioner is immediately allowed by the same;
- iv) In the event the School approves the application for transfer of the petitioner, it shall immediately forward the same to the recommending body the School Service Commission for taking up the necessary follow up actions;
- v) The entire exercise as above should be completed by the School authority within a period of two weeks from the date of communication of copy of this order.

The writ petition is disposed of.

Since no affidavit-in-opposition has been called for in this case, all allegations made in this writ petition are deemed to have been denied by the concerned respondent.

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

(Rai Chattopadhyay, J.)