

14.05.2025
33
Ct. No.7
sdas

WPA 16519 of 2024

Kabita Mondal
Vs.
The State of West Bengal & Ors.

Mr. Ujjal Ray
Ms. Manishikha Mondal
.....for the petitioner

Mr. Alok Banerjee
Mr. Manish Biswas
..... for the State

Mr. Kanak Kiran Bandyopadhyay
..... for the WBCSSC

Let affidavit-of-opposition filed on behalf of the District Inspector of Schools (S.E.), Malda/respondent no. 5 be taken on record.

Citing inaction on the part of the West Bengal School Service Commission (hereinafter referred to as the 'Commission') in taking a decision on the petitioner's application, which was forwarded to the Commission by the District Inspector of Schools through the "Utsashree Online Portal" by the D.I. of Schools, the present writ petition has been preferred.

Sans unnecessary details, the relevant facts that led to the filing of the present writ petition are that the petitioner joined Masaldaha Ganapatrai High School, Malda (hereinafter referred to as the 'school'), as Group-D

staff (Matron) on 10th August 1994. Her appointment was approved on a substantive basis vide Memorandum No. 1075/1(6) dated 25th January 1995. The petitioner's husband passed away on 18th January 2014, leaving her a widow with a tender-aged son. In 2021, she approached the school authority for a transfer to a suitable school on special grounds. Her application was forwarded to the District Inspector of Schools and subsequently to the Commission. However, the Commission did not take any effective steps nor did make a decision on her application, which had been forwarded to it through the "Utsashree Online Portal." This inaction on the part of the Commission has prompted the petitioner to file the present writ petition.

Mr. Ray, learned advocate representing the petitioner, referring to Rule 4(b) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds, and Reallocation) Rules, 2015 (hereinafter referred to as the '2015 Rules'), submits that a non-teaching staff member whose husband has passed away prematurely is entitled to seek a transfer on special grounds. The petitioner approached the school authority seeking a transfer on special grounds, with the authority subjectively satisfied regarding the justification of her request. The school authority subsequently forwarded the application to the District Inspector of Schools. Upon finding that the petitioner's request for a transfer had

merit, the District Inspector of Schools forwarded it to the Commission. Mr. Ray further submits that the Commission cannot leave the matter unattended for an indefinite period. He prays for an appropriate direction to be issued to the Commission, ensuring that the petitioner is transferred to a school in a location suitable for her.

Mr. Bandyopadhyay, learned advocate representing the Commission, vehemently opposes the contention advanced on behalf of the petitioner. He submits that the petitioner's husband passed away in 2014, and after waiting for almost seven years, the petitioner approached the school authority in 2021. He further submits that such a belated approach cannot be entertained.

In reply, Mr. Ray, learned advocate, submits that since both the school authority and the District Inspector of Schools were satisfied with the justification for the petitioner's prayer for transfer on special grounds, the Commission cannot sit in appeal over the decisions made by the Managing Committee of the school and the District Inspector of Schools.

Mr. Banerjee, learned advocate representing the State, submits that since the matter has already been referred to the Commission, the Commission should have acted in accordance with law.

Heard the learned advocates representing the respective parties and perused the materials on record. Admittedly, Rule 4(1)(b) of the 2015 Rules empowers a

woman teacher or non-teaching staff, whose husband has died prematurely, to seek a transfer on special grounds. To facilitate the processing of transfer applications for women teaching or non-teaching staff in schools, the State launched the “Utsashree Online Portal,” which, as submitted, has been suspended effective from 29th September 2022. The Commission cannot refuse to take a decision on the petitioner’s application, which was processed and ultimately forwarded to the Commission for making the necessary recommendation before the suspension of the said Portal. Now, for better appreciation of the issue, it would be apt to quote the provision under Rule 4(1)(c) of the 2015 Rules, which is as follows :

“Teachers or non-teaching staff serving in Aided/Sponsored schools where the serving places of the spouses are away beyond 50KMs.”

The Rules quoted herein indicate that the petitioner’s transfer application, which was preferred seeking transfer to a school suitable for her under Rule 4(1)(c) of the 2015 Rules, can only be decided by the Commission. No provision of this Rule has been cited by either party to demonstrate that a transfer application on special grounds—except under Rule 4(1)(c)—can be decided by the Commission, or that the Commission has the authority to sit in appeal over the decision of the school authority and the District Inspector of Schools,

who, based on their subjective satisfaction, deemed the petitioner's prayer for transfer justified.

Therefore, based on the foregoing discussion and the reasons set out in the preceding paragraphs, the writ petition is disposed of with a direction to respondent no. 3, the Chairman of the West Bengal Central School Service Commission, to take necessary steps on the transfer application forwarded to him through the 'Utsashree Online Portal,' in accordance with law and in light of the observations made in this order.

However, before disposal of the petitioner's application, an opportunity for a hearing shall be granted to her.

Entire exercise shall be completed within a period of eight weeks from date, acting on the server copy of this order without insisting the petitioner for production of certified copy thereof.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)