

18.06.2025
Sl. No. 29
g.b.
Court No.551

W.P.A. 16372 of 2022

Krishna Das
-Vs-
The State of West Bengal & Ors.

Mr. Ujjal Ray
Mr. A. Chakraborty
.....For the Petitioner
Mr. Sourav Mitra
.....For the WBCSSC
Mr. Supriyo Chattopadhyay
Mr. Pinaki Bhattacharyya
.....For the State

1. The petitioner is aggrieved by the fact that the petitioner's application for transfer has been in limbo since 2022. The petitioner is an assistant teacher in English in Goidalaha Dakshin Para Junior High School.
2. The petitioner joined her service at such post on December 10, 2013. On May 15, 2022 the petitioner made an application for transfer on general ground. Such application for transfer was recommended by the school authorities to the District Inspector of Schools (Secondary Education), North 24 Parganas (hereafter 'the D. I.') with the remark "Zero Enrollment School, Recommended for transfer". The petitioner's

application has been pending with the D. I. since then.

3. The reason for the D. I. to not forwarded the petitioner's application for transfer to the West Bengal Central School Service Commission (hereafter 'WBCSSC') as intimated by the D. I. to the petitioner is that the D. I. has not been able to find out a teacher who could work in place and stead of the writ petitioner at the petitioner's present school even on temporary basis upon the petitioner's transfer therefrom.

4. Mr. Ray, learned advocate appearing for the petitioner has drawn the attention of this Court to the Notification dated January 3, 2022 which mandates the D. I. to take steps in a time bound manner to search for a teacher on the same subject who could act as a substitute of a candidate seeking transfer from a given school to another, and submits that the purpose of this arrangement was to ensure that students of the school wherefrom a single teacher has been transferred do not suffer due to the absence/non-availability of a teacher at such school.

5. Mr. Ray submits that in view of the peculiarity of the case at hand where it is admitted that the school in question (where the petitioner is serving) does not have any student at all, such arrangement as mandated by the Notification dated January 3, 2022 is not required to be done at all.

6. Mr. Ray in support of this submission also invites the attention of this Court to the report filed by the respondent no.6 i.e. the District Inspector of Schools (Secondary Education), North 24 Parganas wherein, at paragraph 4 the respondent no.6 has averred as follows:

“I do hereby state that the Goaldaha Dakshin Para Junior High School, District North 24-Parganas is a zero enrolment Junior High School with a two teachers in position. Hence the Teachers Student Ratio of Goaldaha Dakshin Para Junior High School, District North 24-parganas is 2:0 (Teacher –2 Student –0)”

7. Having heard the learned advocates appearing for the respective parties and having considered the material on record, this Court is of the view that the action of the D. I. in not recommending the petitioner’s application and not

forwarding the case of the petitioner for transfer to WBCSSC on the ground of the D. I. being unable to find out a substitute teacher in terms of the Notification dated January 03, 2022 cannot be countenanced at all.

8. This Court finds force in the submission of the Mr. Ray that the Notification dated January 03, 2022 has an avowed purpose, which is to cater to the needs of the students of the subject whose teacher gets transferred from that school to a different school. In the present case where it is an admitted position that there is no student in the school concerned (wherefrom the petitioner has been sought to be transferred), such an arrangement could have been avoided. There is another angle from which this matter can be looked at. No sincere teacher would like to work as a replacement teacher/substitute teacher in a school where there is none to teach. This aspect may be a big factor in inducing the unwillingness of teachers in the relevant locality to act as substitute teacher in the school wherefrom the petitioner seeks to be transferred.

9. In such view of the matter, this Court is of the view that the D. I. should consider the matter afresh and if still the number of students in the said school is “zero” the D. I. should forward the petitioner’s case for transfer to the WBCSSC for consideration within a period of two weeks from the date of communication of this order indicating it to the WBCSSC that the arrangement mandated by the Notification dated January 03, 2022 to be undertaken by the D. I. for finding out a substitute teacher is not feasible because of the peculiarity of the situation i.e. there is no student to be taught in the school wherefrom the petitioner seeks to be transferred. The WBCSSC shall thereafter take an appropriate decision within a period of three weeks from the date of the D. I.’s recommendation reaching the Commission.

10. Since more than three years have passed from the date of making of the petitioner’s application and since the petitioner apprehends that with the passage of time, vacancy in the three schools mentioned by the petitioner in the array of her preference of schools in her application for

transfer may have been filled up in the meantime, the WBCSSC shall, in case it finds the petitioner's case fit for transfer and if vacancies in the schools indicated by the petitioner in her application for transfer are not available, afford an opportunity to the petitioner to change and indicate fresh preference of the school where the petitioner seeks to be transferred.

With the aforesaid observation WPA 16372 of 2022 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Om Narayan Rai, J.)