

N.22S1

151/CL

18.06.25

Sl-35

Ct.551

(S.R.)

WPA 18823 of 2022

Barun Kumar Mridha

v.

State of West Bengal & Ors.

Mr. Ambiya Khatun

Mr. Asif Ikbal Baidya ... for the petitioner.

Mr. Malay Singh

Ms. Neelam Singh ... for the State.

Mr. Kanak Kiran Bandyopadhyay

... for the WBCSSC.

The petitioner is aggrieved by the rejection of the petitioner's application for transfer on the ground that the petitioner "is a single-teacher in the concerned subject".

The petitioner is an Assistant Teacher at Nekrasuli Junior High School. He applied for transfer on the ground that the wife of the petitioner is patient of Thalassemia and that, the petitioner's school is at distance of 220 kilometers from the permanent residence of the petitioner.

The petitioner's application for transfer was recommended by the school authorities to the District Inspectors of School and a no objection to that effect was also given by the school authorities on August 26, 2021.

The District Inspectors of School returned the petitioner's application for transfer to the school on September 01, 2021 with the observation that "there is a single-teacher in the concerned subject".

The learned advocate appearing for the petitioner submits that the District Inspectors of School, at the relevant point of time, could not have spurned the petitioner's application for transfer on such ground inasmuch as at that point of time the petitioner's application was governed by the unamended West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereafter "General Transfer Rules, 2015"). It is submitted that the case of the petitioner ought to have been decided on the basis of the provision of the unamended General Transfer Rules, 2015 and not the amended General Transfer Rules.

The learned advocate appearing for the District Inspectors of School hands up a copy of Memo No.-1989/2022 dated December 14, 2022 wherefrom it appears that the District Inspectors of School has returned the petitioner's application on the ground that there was a single-teacher in the subject. The said Memo also reveals that the school authorities had indeed granted "no objection" favouring the petitioner. Such Memo is taken on record.

The learned advocate appearing for the Commission submits that the application has not yet been forwarded to the Commission, therefore, the Commission has no role to play in this matter as yet.

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 District Inspectors of School (SE), Jhargram could not have rejected the petitioner's application on the ground of there being a single-teacher in the concerned subject in the school. At the relevant point of time i.e. on or about August 21, 2021 when the petitioner had applied for transfer, there was no embargo on a single-teacher in a subject being transferred from a school to another school.

Even subsequently thereto in view of the several pronouncements of this Court, there is no complete embargo as such, on a single-teacher being transferred from a particular school to another. Further the Hon'ble Division Bench in the case of ***Pragya Sarki vs. State of West Bengal*** (MAT 4 of 2023) has held that the rule/circular/amendment which created embargo on the transfer of a school teacher of a subject in the school would not be applied retrospectively.

However, there are guidelines that have been framed by way of a notification dated January 3, 2022 whereby certain obligations have been imposed upon the District Inspectors of School to discharge its duties, in case the District Inspectors of School finds that a candidate's request for transfer needs attention.

In this regard the judgment of the Hon'ble Division Bench in the case of ***Piyali Goswami vs. The State of West Bengal*** (MAT 64 of 2025) may be noticed. That was also a case where the application for transfer was made

on 12.08.2021 followed by a further representation dated 01.10.2021. In such case the concerned District Inspector of Schools had attempted to find a substitute teacher in terms of the notification dated January 3, 2022 but had not been able to succeed in his attempt. In such context, the Hon'ble Division Bench held as follows:

“8. In a co-ordinate Bench decision in MAT 1218 of 2024 the Hon'ble Division Bench has observed that the said notification passed over a statutory duty on the D.I. of Schools of the district concerned to make an alternative arrangement within a time bound manner. The said notification does not contemplate that unless a willing teacher volunteers to join the school even on a temporary basis, the application for transfer of an eligible teacher would not be allowed at all and is dependent upon the willingness of the teacher.

9. In the instant case, more than four years have passed since the application has been made. However, the same time, we cannot ignore the welfare of the students who suffered in the event the teacher is transferred without post being filled up even on a temporary basis with a fresh drive for recruitment if necessary for the said post.”

In such view of the matter, the matter is remitted to the District Inspectors of School with a direction upon him to consider the petitioner's case for transfer afresh and to forward the same to the WBCSSC in case the petitioner is otherwise eligible for transfer. The District Inspector of Schools shall complete the aforesaid exercise within a period of four months from date keeping in view the observations made by the Hon'ble Division Bench in the case of **Piyali Goswami** (supra).

With the above observations, WPA 18823 of 2022 is

disposed of.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)