

02.05.2025.
14
Ct.No.7.
as

WPA 22086 of 2024

Sampa Paul
Vs.
The State of West Bengal & Ors.

Mr. Ujjal Ray,
Sk. Abdur Rahim,
Ms. Manishikha Mondal.
...for the Petitioner.

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

Mr. Abu Siddique Mallick.
....for the State.

1. The present writ petition has been filed seeking a direction upon the concerned respondent to consider and allow the petitioner's prayer for transfer, on special grounds, to a school located near her residence.
2. Mr. Ray, learned advocate appearing for the petitioner, submits that the applicable Transfer Rules governing the transfer of teaching and non-teaching staff of schools under the State, namely the *West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015*, were promulgated and brought into effect in the year 2015.
3. Mr. Ray submits that the Transfer Rules is still in force. He further states that, in 2021, the State introduced a system for submitting transfer applications in a prescribed format through an online mode, and an online portal was accordingly launched for that purpose. However, the said online portal was

subsequently suspended on 29th September, 2022. As a result of this suspension, the transfer application submitted by the petitioner through the online portal was neither processed nor attended to. Mr. Ray further submits that, following the suspension of the portal, the petitioner also submitted an offline application, but the same has not been entertained by the authorities. Accordingly, he prays for an appropriate direction upon the respondent authority to process the petitioner's offline application and take a decision thereon.

4. Mr. Bandyopadhyay, learned advocate appearing for the Commission, refers to an unreported decision of a Hon'ble Division Bench of this Court, headed by Hon'ble Justice Harish Tandon (as His Lordship then was), of which I was also a member, and contends that the Transfer Rules require that an application for transfer must be submitted in the prescribed form. Relying on the proposition laid down in the aforesaid decision, he submits that a teacher seeking transfer on any ground is mandatorily required to apply in the prescribed format. He points out that, in the present case, the petitioner has not submitted her application in the prescribed form, and therefore, the same could not be processed by the authorities.

5. Mr. Ray refutes the contention advanced by Mr. Bandyopadhyay and asserts that the applications were, in fact, submitted in the prescribed form.

6. Heard the learned Advocates appearing for the respective parties. Perused the materials on record.

7. There can be no doubt in accepting the proposition that once the legislature mandates that a particular action must be done in a specified manner, it must be carried out accordingly, and not otherwise. Since it is the legislative intention that any teacher seeking transfer on any ground must submit an application in the prescribed form, the teacher has no option but to comply with this requirement, as the prescribed form has become an integral part of the statute.

8. However, as noted earlier, the State introduced an online mode to facilitate the submission and processing of transfer applications. This online portal was suspended with effect from 29th September, 2022. Nevertheless, the right conferred upon a teacher to seek transfer on the grounds enumerated in the Rules cannot be revoked simply by suspending the online portal. The portal was introduced solely to expedite the processing of transfer applications and was merely a procedural tool for exercising that right.

9. However, to avoid any controversy regarding whether the petitioner had already submitted an application in the prescribed form, the writ petition is disposed of with liberty granted to the petitioner to submit an offline application in the prescribed form, along with all requisite documents, within a period of one week from the date of this order. In the event such an application is submitted, the school authority shall forward it to the concerned District Inspector of Schools. Upon receiving the application from the school authority, the District Inspector of Schools shall obtain a medical opinion from the competent authority and decide whether the

petitioner's claim for transfer is justified. If the District Inspector finds merit in the petitioner's claim, he shall forward the application to the concerned Commission. Upon receiving such a recommendation, the Commission shall take follow up steps in accordance with the law

10. The entire exercise shall be completed within the time frame specified under the Rule promulgated in Notification No. 1122-SE, dated 21st December, 2021.

11. With this observation, the writ petition is disposed of.

12. There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)