

17.11.2025
Item No.12
Court No.11
KCP

**MAT 1597 of 2025
with
IA No.CAN 1 of 2025
with
IA No.CAN 2 of 2025**

**Amit Mitra
- Versus -
The State of West Bengal & Others**

Mr. Sudip Ghosh Chowdhury,
Ms. Pritha Biswas.
...for the Appellant

Mr. Sunit Kr. Roy.
...for the School Service
Commission

Affidavit-of-service, as filed, be kept on record.

As we have invited the learned advocates appearing for the parties to advance their arguments on merits of the matter and considering the averments made in the application under Section 5 of the Limitation Act, the delay in preferring the appeal is condoned. The application being IA No. CAN 1 of 2025 is, accordingly, disposed of.

The present appeal has been preferred challenging an order dated 3rd September, 2024 passed by the learned single Judge in the writ petition being WPA 24332 of 2022 dismissing the writ petition with an observation that the said '*order shall not preclude the petitioner to make application for transfer in future in the event teaching strength is considerably augmented*'.

Mr. Ghosh Chowdhury, learned advocate appearing for the appellant submits that the appellant submitted an application for transfer since his wife was suffering from gynecological disorder. Such prayer was turned down by the managing committee of the Khaga Junior High School (hereinafter referred to as the said school) due to insufficiency of teachers. However, in terms of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as the 2015 Rules), the managing committee has no such power and it was incumbent upon the school authorities to have the appellant's wife examined by a doctor, as provided under amended Rule 6(2)(f) read with Rule 4(a) of the 2015 Rules. Such argument, as urged, was glossed over by the learned single Judge and no finding was returned and the writ application was dismissed. Such infirmity warrants interference of this Court.

Mr. Ghosh Chowdhury further submits that at present the student strength of the said school is nil and that as such there can be no hindrance towards consideration of the appellant's prayer more so when there is no possibility towards augmentation of the teacher strength in the said school.

Mr. Roy, learned advocate appearing for the Commission submits that the issue needs to be dealt with by the managing committee of the school as well as the concerned District Inspector of Schools.

In spite of service, no one appears on behalf of the State respondents and the school authorities.

Presently there is no student in the said school and consequently, there is no possibility towards augmentation of teaching strength or towards utilization of the teachers in the said school. It was also incumbent upon the school authorities to have the appellant's wife examined by a doctor, as provided under amended Rule 6(2) (f) read with Rule 4(a) of the 2015 Rules.

In view thereof, the order impugned in the present appeal is set aside and the appeal along with the connected application is disposed of granting liberty to the appellant to submit an application for transfer in the prescribed format *offline* along with all relevant documents detailing the vacancies existing, to the respondent no.6 within a period of two weeks from date along with a copy of this order.

Within a period of six weeks from the date of receipt of the said application, the respondent no.6 shall consider the same and take a decision, in accordance with law, upon granting an opportunity of hearing to the appellant.

Needless to observe, in the event the appellant's claim deserves acceptance, necessary follow up steps shall be taken by all the respondents forthwith.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)