

04.03.2025
Court No. 18
Item No.89 (ML)
(Suvendu)

WPA 22694 of 2023

Paramita Datta
-Versus-

The State of West Bengal & Ors.

Ms. Usha Maiti
Mr. Sakya Maity
.....for the petitioner

Ms. Iti Dutta
...for the State

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
...for the WBCSSC

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
Ms. Keya Panja
.....for the WBBSE

In terms of order dated 13th January, 2025
a report in the form of affidavit is filed on behalf
of the Additional District Inspector of Schools
(SE), South 24 Parganas and same is taken on
record.

From the report it appears that the post
where petitioner was transferred vide
recommendation dated 19th April, 2023 issued
by the Secretary, West Bengal Central School
Service Commission is still lying vacant.

It needs to be recorded herein that Section
10C of the West Bengal School Service

Commission Act, 1997 has been declared *intra vires* by the Hon'ble Division Bench by delivering judgment dated 27th July, 2023 passed on a batch of matters one of which was WPO 3066 of 2020 (Rabin Tudu Vs. State of West Bengal & Ors.) and the judgment of the Hon'ble Division Bench dated 27th July, 2023 was not interfered with by the Hon'ble Supreme Court while dismissing Civil Appeals being Nos. 937-961 of 2024 on 26th September, 2024. In view of the aforesaid judgment/ order there is no impediment in transferring the petitioner based on recommendation memo dated 19th April, 2023.

Vide recommendation memo dated 19th April, 2023 issued by the concerned authority of the West Bengal Central School Service Commission petitioner was recommended for transfer from Belegkata Deshbandhu Girls High School, Kolkata to Keoratala SCM High School, South 24 Parganas.

Since constitutionality of Section 10C has already been decided by the Hon'ble Division Bench in the judgment dated 27th July, 2023 and same was not interfered with by the Hon'ble Supreme Court while dismissing Civil Appeals being Nos. 937-961 of 2024 (Secondary Teachers

and Employees Association (SETA) and Anr. Etc. Vs. The State of West Bengal & Ors. Etc.) on 26th September, 2024 respondent authorities are at liberty to take steps based on recommendation memo dated 19th April, 2023 for transfer of the petitioner in accordance with law. Therefore, recommendation memo dated 19th April, 2023 survives in view of law laid down by the Hon'ble Division Bench by delivering judgment dated 27th July, 2023 and the order passed by the Hon'ble Supreme Court on 26th September, 2024.

With the above observations, the writ petition stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)