

14.05.2025
SI No.23
Court No.8
(gc)

**MAT 1831 of 2024
CAN 1 of 2024
CAN 2 of 2024**

**Kalyani Sarkar Hazra
Vs.
The State of West Bengal & Ors.**

Ms. Rajashree Roy,
Mr. Samrat Choudhury,
Mr. Devranjan Das
... for the Appellant.
Mr. Manas Kundu,
Md. Mansoor Alam
...for the State.
Mr. Md. Sarwar Jahan,
Mr. Sk. Nayeemul Haque
...for the DPSC, Murshidabad.

Re: CAN 1 of 2024

1. This is an application for condonation of delay.
2. There is a delay of 59 days in preferring the memorandum of appeal. Sufficient cause being shown for not being able to prefer the appeal within the period of limitation. The delay of 59 days is condoned.
3. Accordingly, the application for condonation of delay is allowed and disposed of.

**Re: MAT 1831 of 2024
CAN 2 of 2024**

4. The appeal is arising out of an order dated 29th April, 2024 in a writ petition in which the writ petitioner has alleged that her application

for transfer on medical grounds from Bamnabad Raninagar-II Circle, Murshidabad to No.7, Manindra Nagar High Primary School under Sadar West Circle was not considered. The genesis of the problem started with the issuance of Memo dated 15th July, 2021 as well as subsequent Memo dated 27th July, 2021 in which the writ petitioner has prayed for continuation of her service as a primary teacher in No.7, Manindra Nagar High Primary School/Junior Basic School in the district of Murshidabad. By Memo dated 15th July, 2021, the writ petitioner was requested to return back to the primary school where she was working prior to her transfer to Manindra Nagar High Primary School and by subsequent Memo dated 27th July, 2021, the Sub-Inspector of Sadar West Circle upon scrutinizing the document submitted by the writ petitioner found her to be fit to go back to her previous school since no order of the Court was subsisting at the relevant point of time with regard to continuation of the writ petitioner as primary teacher in Manindra Nagar High Primary School. Before the learned Single Judge, the medical ground was

taken as a ground for transfer. The said issue was addressed by the learned Single Judge in the following paragraphs:-

“An attempt has been made to impress upon this Court that considering the previous application of the petitioner which was made before the concerned respondent authority seeking transfer on the ground of indisposition of the petitioner the deputation order dated 27th March, 2018, at page 39 of the writ petition, was passed but on perusal of the said Memo dated 27th March, 2018 it transpires that such order was issued by the Chairman in administrative exigency not on the basis of application for transfer made by the writ petitioner. It also appears that the medical documents which are annexed to the writ petition are all relate to the years 2014 to 2016 save an except one document which is dated 28th May, 2019. The writ petitioner could not point out any application has been made based on the said medical documents dated 28th May, 2019 at page 37 of the writ petition seeking placement of the writ petitioner in a primary school nearby to her place of residence. Therefore the writ petition does not merit consideration and stands dismissed.

However, this order shall not prevent the writ petitioner to make appropriate application before the

concerned respondent authorities seeking transfer on medical ground upon placing reliance on contemporaneous medical documents. If such application is made by the writ petitioner it will be considered by the respondent authorities in accordance with law.”

5. The writ petitioner instead of joining the aforesaid school filed a writ petition being WPA 20140 of 2022 praying, *inter alia*, for consideration of application for transfer on medical ground on 26th September, 2021. The learned Single Judge noticing the fact that she did not attend her parent school, namely, Bamnabad Raninagar-II Circle, Murshidabad further has drawn her salary from the said school for the period from July, 2021 till April, 2023. The respondent nos.5 and 6 were directed to take a decision on the petitioner's absence since July, 2021 till the date of the order and pass appropriate deterrent orders thereon.
6. The learned Counsel for the writ petitioner/appellant has submitted that the petitioner was under the impression that her application for transfer on medical ground would be considered by the appropriate authority had continued to work at No.7,

Manindra Nagar High Primary School/Junior Basic School and had drawn her salary from Bamnabad Raninagar-II Circle, Murshidabad. The respondents are not disputing that she had taken classes at Bamnabad Raninagar-II Circle, Murshidabad.

7. Although, we are of the view that the appellant ought to have joined her parent school after 14th September, 2021 when the writ petition was dismissed and could not have continued with the No.7, Manindra Nagar High Primary School/Junior Basic School, we are of the view that it cannot be intentional as she was expecting her application for transfer to be considered on medical ground by appropriate authority in which case she would be transferred to a school other than her parent school.
8. On such consideration, the direction of the learned Single Judge upon the respondent nos.5 and 6 is set aside.
9. The writ petitioner has disclosed one prescription dated 26th April, 2022 and the subsequent fact to buttress the observation in the judgment dated 14th September, 2021.

10. The writ petitioner, however, has joined her parent school on 13th July, 2024, it would be open for the writ petitioner to file an application for transfer on medical ground afresh and in the event any such application is filed, the appropriate authority shall decide the said application in accordance with law.
11. The appeal is allowed.
12. Accordingly, the appeal and the application are disposed of.
13. However, there shall be no order as to costs.
14. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Smita Das De, J.)