

Item No.- 25
14.02.2025
Rohan
Court No. 8

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**FMA 18 of 2025
With
I.A. No.: CAN 1 of 2024**

**Nandita Das
Versus
The State of West Bengal & Ors.**

**Mr. Ekramul Bari,
Mr. Sk. Imtiaj Uddin**

... for the appellant

**Mr. Bhaskar Prasad Vaisya, Ld. AGP,
Mr. Suman Dey**

... for the State

Mr. Bibek Dutta

... for the WBBSE

1. The application for transfer on the ground of distance is rejected by the school relying on the address given in the service record. According to the appellant, initially he was the resident of Asansol and was posted in the school which is within the distance norms set forth in the statutory provisions. Later on, he had shifted his residence to Durgapur which is more than 60 kilometers away from the said school and since the distance norms indicate that if the teacher is posted in a school beyond 25 kilometers from his residence, he is entitled to pray for transfer.
2. The Trial Court rejected the said writ petition as the petitioner could not prove from the service record that the new address was duly incorporated; rather the Single Bench proceeded to record that the day on which the school authority rejected the said application, an application was taken out for correction of the service book meaning thereby to incorporate the

new residential address. Admittedly, on the day when application for transfer was made, service book contains the address given to the appellant which is at Asansol and, therefore, there is no infirmity on the part of the authority in proceeding to reject the said application.

3. Mr. Ekramul Bari, learned advocate appearing for the appellant, vociferously submits that at the time of uploading the application on the “UTSASHREE” portal, the appellant has shown the present address, i.e., at Durgapur and, therefore, the authority must make an enquiry in this regard before it proceeds to reject the said application.
4. We are not impressed with the aforesaid submission for the simple reason that the moment the residential address of the employee changes, it is his duty to record the new address, more particularly when he is aware that the relevant rules concerning the transfer confers right upon the teacher to seek transfer on the distance norm.
5. It is sought to be further contended by Mr. Bari that we have categorically stated in the writ petition that the appellant is a resident of Durgapur and the learned Judge should not have proceeded to dismiss the said application at the motion stage without calling for the affidavits from the respondents.
6. We had the occasion to peruse the averments made in paragraph 10 of the writ petition where the petitioner has averred that he is a resident of Durgapur, which is 62 kilometers away from the school. The said paragraph has been affirmed as true to the knowledge but we do not find that there is any supporting document annexed to the writ petition indicating that the present residential address is of Durgapur and not of Asansol. The Court should not go by simplicitor on the averment made in the pleadings unless the same is

supported by a cogent and convincing material. The doctrine of non-traverse should not be applied unregulated and the Court must satisfy itself whether the statements are corroborated by cogent evidence.

7. Interestingly, on the day when the school authority rejected the application, the appellant took out an application seeking change of address in the service record, which implies that at the time of making an application, no attempt was made on the part of the appellant to correct the service records. From whatever angle we look at, we do not find any ground to warranting interference in the impugned order.
8. The appeal being **FMA 18 of 2025** is accordingly **dismissed**.
9. Connected application being **CAN 1 of 2024** is also **disposed of**.
10. No order as to costs.
11. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(HARISH TANDON, J)

(PARTHA SARATHI CHATTERJEE, J)