

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Harish Tandon**

And

The Hon'ble **Justice Prasenjit Biswas**

MAT No. 2140 Of 2024

Biswadeep Deb

-Versus-

The State of West Bengal & Ors.

For the Appellant : **Mr. Sudip Ghosh Chowdhury,
Ms. Shreyeta Mitra,
Ms. Debolina Chakraborty.**

For the W.B.B.S.E. : **Ms. Koyeli Bhattacharyya,
Ms. Keya Panja
Mr. Bibek Dutta.**

For the SSC : **Mr. Sumit Kr. Roy**

Delivered on : **10.01.2025**

Prasenjit Biswas, J:-

1. The appellant has filed certified copy of the impugned order dated 25.11.2024. Let the same be tagged with the memorandum of appeal.
2. The order passed by the learned Single Bench dated 25.11.2024 in WPA No. 27396 of 2024 is assailed in this appeal.
3. By passing the impugned order learned Single Bench held that the petitioner did not come within the zone of consideration for being transferred to any of the three different posts lying in three schools and dismissed the writ petition preferred by this appellant.
4. The petitioner joined as an Assistant Teacher in the school on 16.12.2013. He applied for general transfer on the ground of distance on 04.08.2021 in the portal. The school authority issued no objection certificate and forwarded the same to the District Inspector of Schools and in turn District Inspector of Schools forwarded the application to the West Bengal Central School Service Commission on 26.08.2021 with remark, '*Prayer is returned due to low rank in preferred school applied by the candidate*'. As the application for transfer was rejected by the respondents this appellant filed a writ application before this Court which was dismissed by passing the impugned order by the learned Single Bench.
5. Learned Counsel at the behest of the appellant said that since District Inspector of Schools recommended for transfer in favour of the appellant the commission had/has no role to play apart from issuing to the transfer recommendation. It is further said by the learned Advocate that no score has been provided to the appellant to justify their stand. Our attention is drawn to the Rule 6(2) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015. It is further said that the amendment of the particular Rule has come into force on 8th September, 2021

where Rule 6 has been substituted in which concept of applying only one application for maximum three of such vacant posts as per his/her priority of choice in application forms as prescribed has been repealed. It is said that the appellant has applied under the amended Rule and as such rejection of his prayer for transfer by the authority concerned does not stand under the eye of law.

6. Rule 6(2) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 provides that:

“An incumbent desirous of General Transfer/General Transfer on Special Ground within the meaning of these rules shall apply in the Form (containing Part A and Part B) as appended to these rules. The filled up form with requisite fees of Rs. 2,000/- payable in favour of “The West Bengal Central School Service Commission”, within the period as will be notified by the School Service Commission by submitting application Form. One incumbent may submit only one application for maximum 03(three) of such vacant posts as per his/her priority of choice in application forms as prescribed. Handwritten or online applications may be accepted. Application submitted without fees shall be rejected. Change of preference/preferences after making application by the incumbent, shall not be entertained.”

7. As per earlier Rule 6(2) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 an incumbent desires of General Transfer/General Transfer on Special Ground within the meaning of these Rules shall apply in the form as appended to these Rules along with the requisite fees payable in favour of the commission within the period as will be notified by the School Service Commission by submitting the application form. Under the said Rule one incumbent may submit only one application for

maximum three of such vacant posts as per his/her priority of choice in application form as prescribed. However, an amendment of that particular Rule has come into force on 8th September, 2021 where Rule 6 has been substituted and concept of applying only one application for maximum three of such vacant posts as per his/her priority of choice in application form as prescribed has been repealed. The prayer of the appellant is rejected by the respondent with remark that prayer is returned due to low rank in preferred schools applied by the candidate without adhering to the provision of the amended Rule which has come into force by gazette notification dated 8th September, 2021.

8. Learned Single Bench dismissed the writ petition on the ground that the petitioner did not come within the zone of consideration for being transferred to any of the three different posts lying in three schools. When amended Rule has come into picture by gazette notification dated 8th September, 2021 in which previous Rule 6 has been substituted then concept of applying only one application for maximum three of such vacant posts as per his/her priority of choice as prescribed in the previous Rule does not stand. So, the application filed by the appellant should not be rejected on the ground of low ranking in preferred schools as applied by the candidates.

9. In view of the above facts and circumstances and discussions made above we find that learned Single Bench committed an error in dismissing the writ application without adhering to the provision of the amended provision of Rule 6 of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 which has come into effect by gazette notification dated 8th September, 2021.

10. Thus, the impugned order passed by the learned Single Bench dated 25.11.2024 is hereby set aside and the appeal be and the same is hereby allowed.

11. Concerned respondent is hereby directed to reconsider the representation made by the appellant/petitioner praying for his transfer as per provision of law within four weeks from this date.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

I agree.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)