

14.08.2025
Item No.14
Court No.11
KCP

**MAT 2216 of 2024
with
IA No. CAN 1 of 2025**

**Bipul Sarkar
- Versus -
The State of West Bengal & Ors.**

Mr. Ujjal Ray
Mr. Binit Kumar.
... for the Appellant

Mr. Swapan Banerjee,
Mr. Diptendu Narayan Banerjee.
... for the State

Mr. Sourav Mitra.
... for the Central School
Service Commission

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

The original certified copy of the order impugned,
as placed, be kept on record.

As no one appears on behalf of the Commission,
we direct Mr. Mitra, learned advocate, who is present in
Court today to appear and represent the Commission.
Let his engagement be regularized.

The petitioner/appellant was appointed as an
Assistant Teacher in history in Chandipur Junior High
School on 20th July, 2011 and has been working there
since. The petitioner had made an application for
transfer to the Teacher-in-Charge of the said high school

on 6th August, 2024 and also to the District Inspector of Schools, Malda on 8th August, 2024.

Both applications were made in the offline mode as the online portal was unavailable and is still unavailable. The said application was kept pending by the authorities, prompting the petitioner herein to prefer a writ petition being WPA 26915 of 2024. The said writ petition was disposed of by the order of November 28, 2024, *inter alia* on the ground that since the petitioner was in service from 2011 and has been commuting from his place of residence to the school, the distance of approximately 256 km., the same may continue till the online portal is made available.

Hence, the present appeal.

We have heard learned counsel appearing for the respective parties and gone through the records.

We find that prior to introduction of the application through online portal some time in 2021, the offline application was in force by the Notification of March 11, 2015. Since the notification of 2021, all applications are to be made online. However, in the event, the online portal is unavailable, as at present, the effect of the 2015 notification which is still in force, entitles the petitioner to apply for his transfer offline. This is exactly what the petitioner has done.

Mr. Ray, learned advocate appearing for the petitioner/appellant has also brought to our attention the notification of December 21, 2021 being 1123-SE/S/1S-4/95 which clearly states that such application is to be considered by the school and then forwarded to the District Inspector of the concerned district within a period of fifteen days from the date of application and thereafter on consideration the DI would forward the same to the concerned Commission.

Mr. Banerjee, learned advocate appearing for State has drawn our attention to page 63 of the stay petition, which is the prescribed format in which the application ought to have been made by the petitioner along with a no-objection and declaration of the school, duly certified with signature and seal of the District Inspector.

Mr. Banerjee states that the petitioner had not applied in such prescribed format as mandated.

Mr. Mitra, learned advocate appearing for the Commission has also stated that it is the District Inspector of School, who upon consideration of the application ought to have forwarded the same to the Commission and only then the Commission would sanction the transfer.

We have heard the learned Counsel for the parties and considered the documents on record.

We find that it cannot be a ground for non-consideration of the application for transfer by the petitioner, merely because the same has been made in the offline mode. At the same time, the petitioner ought to have made the application in the prescribed form, which could only have been done upon the necessary declaration and no-objection being given by the school to the next level of authority, being the District Inspector. However, the school has sat over the matter since 6th August, 2024 and has clearly failed to discharge its duty of considering the same, whether to accept or refuse such a request, within a period of fifteen days as stipulated under the aforesaid notification of December 21, 2021 (1123-SE/S/1S-4/95).

In such conspectus, the impugned order dated November 28, 2024 is set aside. We direct the school authorities to consider the application of the petitioner and take a decision in respect thereof within a period of fifteen days from the date of communication of the order. In the event, the school decides to give a no-objection, to forward the petitioner's application along with such no-objection to the District Inspector of Schools within fifteen days from the date of filing of the said application in the prescribed format by the petitioner. Upon receipt of such application in the prescribed format, DI shall take a decision within 2

weeks. If the DI allows the application, he will forward his decision to the Commission within a week.

The Commission will render its recommendation within a period of three weeks from the date of receipt of the application, in accordance with law. In the event, the DI rejects the petitioner's prayer for transfer, he will intimate the petitioner and the reasoned decision within 2 weeks from the decision being taken.

With the above observations and directions, the appeal and the connected application are disposed of.

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.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)