

HIGH COURT AT CALCUTTA

In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 435 of 2025

Tanima Bandyopadhyay
Vs.
The State of West Bengal & Ors.

For the Petitioner : Mr. Shuvro Prakash Lahiri,
Mr. Debajit Kundu.

For the Central School Service
Commission : Mr. Sunit Kr. Roy (in vc),
Mr. Subhasish Misra.

For the State : Mr. Pradip Sarkar.

Heard on : 04.03.2025

Judgment on : 04.03.2025

JAY SENGUPTA, J:

1. This is an application praying for quashing of the impugned Memorandum No.45/01(03)/LS/RO dated 11th July, 2024 and for a direction upon the concerned respondent authorities to immediately grant transfer in favour of the petitioner to any of her preferred and/or any school nearby to the residence of the petitioner.

2. Affidavit of service filed on behalf of the petitioner is taken on record.

3. On 02.12.2013, the first school issued a letter of appointment in favour of the petitioner pursuant to the recommendation made by the concerned School

Service Commission dated 28.10.2013. In January, 2014, the service of the petitioner was approved in Sri Nara Singha Vidyapith (H.S.). On 28.04.2022, the petitioner was recommended for transfer to Debinagar Gayalal Ramhari Girls' High School. On 13.05.2022, the order of transfer was issued. In June, 2022, the petitioner's appointment at the second school was approved. The petitioner's marriage was solemnised in the year 2013. But, the same was dissolved on 14.03.2024. Accordingly, on 12.04.2024, the petitioner made an application praying for transfer. Pursuant to a direction passed by this Court in *WPA 899 of 2024*, the Commissioner of School Education considered the petitioner's prayer of transfer and passed the impugned order. It is pertinent to mention that according to the notification dated 08.09.2021 of the School Education Department, Secondary Branch, an incumbent may apply online in the designated portal for transfer on the ground that a female employee was facing serious problem in attending school due to divorce or death of the husband. She was facing serious problem in attending the school due to divorce or death of her husband. It is settled law that in calculating the period of five years as required, the service rendered at different schools would be cumulatively taken into account. That was not done so in the impugned order. That apart, according to the notification dated 21.12.2021 of the said

School Education Department, five years of satisfactory service in a particular school is not required to avail of transfer on special ground. On this count too, the concerned authority erred in its impugned order.

4. Learned counsel appearing on behalf of the Central School Service Commission denies the allegations and opposes the prayer.

5. The State is represented.

6. In view of the fact that the Commissioner of School Education in its impugned order failed to consider the settled position of law that five years' of service was not required for transfer on special ground, the impugned order deserves to be set aside. The said impugned order of School Education Department needs to take a fresh look at the application for transfer after considering the positions of law governing such field.

7. In view of the same, the impugned order dated 11.07.2024 is set aside and the matter is remanded back to the Commissioner of School Education, West Bengal for deciding the issue of transfer afresh after giving an opportunity of hearing to the petitioner. The entire exercise shall be completed within eight weeks from the date of communication of this order. As the vacancy in the preferred school may not remain when the Commissioner would consider the application, the options of vacancies available at nearby places shall be intimated/offered to the petitioner. Within a week thereafter, the outcome of such consideration by way of a reasoned order shall be communicated to the petitioner.

8. As affidavits were not called for, allegations contained in the writ petition are deemed not to have been admitted.

9. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J)