

## HIGH COURT AT CALCUTTA

*In the Circuit Bench at Jalpaiguri*  
Constitutional Writ Jurisdiction

**Present:**

**THE HON'BLE JUSTICE JAY SENGUPTA**

**WPA 438 of 2025**

Mrinal Das

Vs.

The State of West Bengal & Ors.

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

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

For the State : Mr. Hirak Barman,  
Mr. Sourav Sarkar.

Heard on : 04.03.2025

Judgment on : 04.03.2025

**JAY SENGUPTA, J:**

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

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an assistant teacher of Burda High School. He joined the school on 22.01.2020 as an assistant teacher in Physical Education. He prayed for transfer on "any other ground" as available in the Rules. In fact, as on date, he has completed five years of service in this school. The special ground on which transfer was sought included distance, medical ailment of the spouse and tender age of the child. By turning down the prayer for transfer, the Commissioner of School Education came to an erroneous finding that five years continuous service is

required for transfer on “any other ground”. On this, reliance is placed on an order passed on 26.04.2023 by this Court in *WPA 10210 of 2022* and on the order dated 24.08.2023 passed by a Division Bench of this Court in *MAT 782 of 2023*.

Learned counsels appearing on behalf of the Central School Service Commission and the State oppose the prayer.

It appears from the decisions passed by this Court on this point that five years’ continuous service is not a requirement for considering transfer on “any other ground”. This was not followed in the impugned order.

Therefore, the impugned order is set aside and the matter is remanded back to the Commissioner of School Education, West Bengal to decide the issue afresh in accordance with law and after giving an opportunity of hearing to the petitioner as expeditiously as possible, preferably within a period of eight weeks from the date of communication of this order.

As at present, vacant positions may not be available in the preferred schools, necessary options may be given to the petitioner in this regard.

With these observations, the writ petition is disposed of.

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

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

**(Jay Sengupta, J)**