

WPA 1667 of 2026

Saswati Parua Mondal
Vs.
The State of West Bengal & Ors.

Mr. Sudip Deb, Sr. Adv.
Mr. Sumitava Chakraborty
Ms. Bratati Pramanick
Mr. Anupam Singha
..... for the petitioner

Mr. Swapan Kumar Dutta, learned G.P.
Mr. Dipankar Dasgupta
Mr. Abhishek Chakraborty
..... for the State

Mr. Subhrangsu Panda
Mrs. Ina Bhattacharyya
Mrs. Mithu Singha Mahapatra
..... for the respondent no. 3

Mr. Sayantan Bose
Ms. Priyanka Gope
..... for the respondents no. 5 & 6

1. Let affidavit-of-service, as filed in Court, be kept on record.
2. The petitioner is an Assistant Professor in Physiology presently employed in the Bajkul Miloni Mahavidyalaya. She has been employed as such since September, 2008.
3. Due to exigencies, relating to her own health and the health of her elderly parents, the petitioner has sought for a transfer to a more accessible college according to her own choice as mentioned in the writ petition which were considered and disposed of

by a reasoned order of December 12, 2025 by the respondent no. 2. This order was pursuant to a direction of this Hon'ble Court made on September 9, 2025.

4. The order of December 12, 2025, has been assailed in the present writ petition.

5. Mr. Deb, learned senior Advocate appearing for the petitioner, has challenged the order principally on two grounds :-

(a) First, that the transfer has been disallowed on the basis of the finding that the petitioner is a single teacher post holder in the Bajkul Miloni Mahavidyalaya where she is employed;

(b) Second, that there are no vacancies in any of the colleges chosen by the petitioner. Only vacancy is available in the Midnapore College, which is, however, a reserved post for the ST candidate;

6. Mr. Deb has drawn my attention to the Memorandum No.4977-BCW/MR-33/15 dated December 18, 2015 as well as to the West Bengal Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1976 (hereinafter referred to as the "said Act").

7. Mr. Dutta, learned Government Pleader submits that the reserved post cannot be filled up by a

person from the General Category Quota or the Unreserved Quota.

8. Mr. Panda, learned Advocate appearing for the respondent no. 3, in his usual fairness, has assisted the Court by a correct interpretation of the legal provisions and submits that it is permissible in law to fill up a reserved category post by a candidate from the unreserved category.
9. As it appears from the conjoint reading of the said Act as well as the Memorandum that in a normal situation vacancies created, can be filled up either by way of transfer or fresh recruitment. The vacancies created by transfer can be filled up by the persons only of that particular category. However, the second point in the Memorandum, is an explanation and enlargement of Section 6(2) of the said Act.
10. The second point in the Memorandum clarifies that a reserved category post can be filled up by an unreserved/ general category candidate and once the same is done, a carry forward method is to be adopted by which the appointing authority, on an application to the concerned authority, would seek reservation of the next available vacant post. This ensures that the principle enunciated and followed by the 100 point roster is maintained. Rule 2 of

the Memorandum is, therefore, an explanation to Section 6(2) of the said Act.

11. The impugned order of December 12, 2025, is misdirected to the extent that it upholds or at least takes into consideration the single teacher post.
12. The respondent no. 2 has completely glossed over the decision of this Hon'ble Court in MAT 2108 of 2023 (Tripti Biswas vs. The State of West Bengal & Ors.), MAT 754 of 2022 (Pijush Kanati Das vs. The State of West Bengal & Ors.) and MAT 871 of 2024 (Moumita Saha vs. The State of West Bengal & Ors.). A single subject teacher is not a ground to deny a request for transfer, if the incumbent is able to fulfill all the other conditions.
13. It is indisputable that the petitioner had sought for transfer from her present college to any of the three colleges of her choice on the ground of her physical ailment as well as on the ground of her ailing and aged parents, whom she had to take care and the distance of 240 kms. she has to commute everyday.
14. Though transfer is not a matter of right, it is equally indisputable that once transfer has been sought for, it has to be viewed with some amount of larger interest that has to be kept in mind and considered regarding the congeniality and an appropriate teaching environment not only for the

petitioner but also for the persons seeking transfer. The petitioner's daily commute to attend her classes is approximately 240 kilometers, which is neither congenial nor can it be expected from a person with such large distance to commute, to give her best to the students, she is educating.

15. Since Ms. Gope, learned Advocate appearing for the respondents no. 5 and 6, admits that there is a vacancy, though in the reserved category, it would be appropriate if the respondent no. 2 is directed to consider the petitioner's application for transfer, revisiting the application in view of the Memorandum of December 18, 2015 and the said Act.
16. The posts are sanctioned taking into account the number of students and, therefore, by the increase or the decrease in number unless the Government abolishes the sanctioned post, it remains to be filled up as the State cannot keep sanctioned post vacant for all time to come.
17. The application for transfer has to be considered in more pragmatic and reasonable manner and must take into account the realities and the plight of a person applying for transfer to another college. In the event the stricter way of applying the test of teacher-pupil ratio, as has been done in the instant case, is considered reasonable, it would

frustrate the very purpose of promulgating the said Rules and shall make the provisions contained therein farcical. If the provisions contained therein are capable of two interpretations, the Court must adapt an interpretation taking into account the nature of the legislation and the beneficiaries therein.

18. The Rule for transfer is enacted for the purpose of the transfer to be streamlined and the standard to be set for bringing a uniform decision in dealing with the application for transfer filed by the teachers.

19. In view of the aforesaid, the order of December 12, 2025 is set aside.

20. The application of transfer of the petitioner will be considered in the light of the Rule 2 of the Memorandum and Section 6(2) of the said Act.

21. Since the respondent no. 2 has been directed to revisit the entire issue and the post of Assistant Professor in Physiology in the reserved category is lying vacant for a long period of time in the respondent no. 5, the same shall not be filled up till March 31, 2026.

22. Respondent no. 2 is directed to reconsider the application of the petitioner taking a more pragmatic view and approach in the matter.

23. Respondent no. 2 will decide the matter by March, 15, 2026 upon giving adequate prior notice of hearing to the petitioner and pass a reasoned order thereof. The reasoned order should be communicated to the petitioner by March 25, 2026.

24. With the aforesaid directions, the writ petition is disposed of.

25. There shall, however, be no order as to costs.

26. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Reetobroto Kumar Mitra, J.)