

15.01.2026
Sl. No.35(DL)
Ct. No.14
(gc)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 10966 of 2025

Sk Azahar Uddin

Versus

State of West Bengal & Ors.

Mr. Sk. Sahjahan Ali

...for the Petitioner.

Mr. Biswabrata Basu Mallick,
Mr. Biman Halder,
Mr. A.A. Ansari

... for the DPSC, Hooghly.

Mr. Ratul Biswas,
Mr. Kaushik Chowdhury

...for the WBBPE.

Mr. Suman Dey,
Ms. Kalpita Paul

...for the State.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. By the present writ petition, the petitioner seeks for direction upon the respondent authorities to transfer the petitioner on special ground taking into consideration all relevant facts.
3. The petitioner contends that he is an Assistant Teacher of Adarsha Bagpota F.P. School Post – Rania Gobindapur, P.S.- Nodakhali, District – South 24 Parganas. The petitioner joined the said school on 19th July, 2021. The petitioner's wife is suffering from Heart and Paranoid Schizophrenia and has to be under regular medical treatment. The petitioner made a

representation on 1st April, 2025 (Annexure – P/4) before the Secretary, West Bengal Board of Primary Education, the respondent No.2 herein for his transfer. However, the same is still pending for consideration. Hence, this writ petition.

4. Mr. Sk. Sahjahan Ali, learned Advocate appearing on behalf of the petitioner submits that the representation of the petitioner dated 1st April, 2025 seeking transfer may be relegated to the appropriate authority to take a decision on such representation.
5. Mr. Kaushik Chowdhury, learned Advocate for the West Bengal Board of Primary Education submits that the petitioner has not yet completed five years of service for pressing his prayer for transfer from the present school as per Rule 4(b) of the West Bengal Primary Education (Transfer of Teachers including Head Teachers) Rules, 2002 as amended on 13th September, 2021. In similar circumstances, this Court in *Priyanka Sarkar -versus- The State of West Bengal (WPA 7329 of 2025)*, has dismissed the writ petition since the petitioner/employee did not complete five years of service as required under the Rule. However, he also seeks that the matter be relegated to the appropriate authority to take decision in accordance with law.
6. Having heard the learned Advocates for the respective parties, the only issue which falls for consideration is whether the representation of the petitioner made on

1st April, 2025 prior to completion of five years of continuous service can be considered by the authority.

7. In examining the issue it would be profitable to reproduce the relevant portion of the observation of the Hon'ble Division Bench in *Animesh Majumdar versus The State of West Bengal & ors. (MAT 746 of 2025)* as hereunder:

“ Under the Transfer Rules a detailed procedure has been provided towards consideration of an application for transfer submitted by a teacher. Admittedly, the appellant's application for transfer dated 27th September, 2024 has not been considered as yet by the competent authority being the Secretary of the Board. As is customary in writ jurisdiction, the writ Court would, at the first instance, ordinarily not do the thing or render the decision that the executive functionary ought to do in the circumstances.

In view thereof, the order impugned in the present appeal is set aside and the respondent no.3 is directed to consider the appellant's application for transfer dated 27th September, 2024, strictly in consonance with the Transfer Rules and to take a decision, in accordance with law and communicate the same to the appellant”.

8. In *Madhumita Ghosh versus The State of West Bengal & Ors. (MAT 672 of 2025)*, the application for transfer was made within five years of service and the writ petition was dismissed by the Single Bench. In appeal, the Hon'ble Division Bench while dismissing the appeal since the ground of transfer application was distance, granted liberty to the appellant-petitioner to make an application for transfer on medical ground.
9. Following the observations of the Hon'ble Division Bench in *Animesh Majumdar (supra)* and in *Madhumita Ghosh (supra)*, the Chairman, District Primary School Council, Malda, respondent no.4 is directed to consider the representation of the petitioner dated 1st April, 2025, strictly in accordance with law, upon notice to

the petitioner and dispose of the same by passing a reasoned order, within a period of six weeks from the date of communication of this order. The reasoned is to be communicated to the petitioner within one week from the date of passing of such reasoned order.

10. Learned advocate for the petitioner is directed to communicate this order to the respondent no.4, the Chairman, District Primary School Council, Malda.
11. With the above direction, the writ petition being **WPA 10966 of 2025** stands disposed of.
12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
13. Interim order, if any, stands vacated.
14. All connected applications, if any, stand disposed of.
15. There shall be no order as to costs.
16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
17. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)