

12.06.2026
Sl. No.25
Ct. No.6
ss

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

W.P.A. No. 792 of 2026

**Jaya Kar
versus
The State of West Bengal & Ors.**

Mr. Sudip Ghosh Choudhury
(through virtual mode)
Mr. Soumyajit Laskar
...for the Petitioner.

Ms. Radhika Agarwal
Ms. Esha Acharya
...for the State.

Mr. Sunit Kr. Roy
(through virtual mode)
... for the WBCSSC

1. By the present writ petition the petitioner seeks for setting aside of order dated 16th August, 2021 issued by the school authorities rejecting the prayer of transfer made by the petitioner *vide* application dated 2nd August, 2021.
2. The petitioner contends that he is an Assistant Teacher of Sishubari High School (HS), P.O. Gopal Baga, District Jalpaiguri (presently Alipurduar). The petitioner joined in the said school on 11th December, 2013. The service of the petitioner was approved on 3rd January, 2014. On 2nd March, 2016 Retention Memo has also

been issued in favour of the petitioner. Previously, the petitioner made an application seeking transfer through *Utsashree* portal which was rejected on 16th August, 2021 observing that the distance from present school to present address of the petitioner is less than twenty-five kilometres and the petitioner is not included in 10% of the senior-most teachers. Being aggrieved by and dissatisfied with the said rejection with observation as above, the petitioner has preferred the present writ petition

3. Mr. Sudip Ghosh Chowdhury, learned Advocate for the petitioner appearing through virtual mode submits that as per Rule 3(2) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (*hereinafter referred to as 'Rules, 2015'*) the distance is to be calculated between two schools, i.e. the school where the petitioner is presently posted and the school where the petitioner is to be transferred and such distance if found to be less than twenty-five kilometres creates a bar in consideration of the application of a teacher. Therefore, the observation of the

school authorities as above is incorrect inasmuch as it is not in consonance with the prevailing rules. In support of his contention he relies on the decision of Co-ordinate Bench of this Court passed in *Parijat Paul versus The State of West Bengal & ors. (Re: WPA 8379)*. So far as the other ground of petitioner not falling within 10% of the senior-most teachers, he submits that with the passage of time there has been change in the staff strength and petitioner at present might fall within the the said 10%. He seeks liberty to file a fresh application for transfer.

4. Mr. Sunit Kumar Roy, learned Advocate appearing for respondents- West Bengal Central School Service Commission, through virtual mode, submits that the petitioner has challenged such observation of the school authority with regard to manner of calculation distance after lapse of five years and thus is not tenable due to delay.
5. Ms. Eash Acharya, learned Advocate representing the State-respondents submit that in the event the petitioner files such application it should be considered by the

concerned authority in accordance with law.

6. So far as the first ground relating to the manner of calculation of distance is concerned, although there is a considerable delay in raising such ground but since the same pertains to a point of law relating to provisions under Section 3(2) of the Rules, 2015, this court is of the opinion that despite delay such observation of the school authority needs to be examined in the light of the prevailing rules.
7. Rule 3(2) of the Rules, 2015 provides that no application under General Transfer shall be entertained if he/she intends to get transferred to a school within a distance of 25 KMs from the present school. Thus the aforesaid rule contemplates in not the distance between the present school of the petitioner and his place of residence but it is a distance between the present school of the petitioner and the school where the petitioner is seeking transfer. Rule 3(2) of the Rules, 2015 provides that if such distance in between two schools is twenty-five kilometres or less in that event the

petitioner is not entitled to be transferred. Therefore, such observation of the school authority that distance from present school to present address of the petitioner is less than twenty-five kilometres in its order of rejection dated 16th August, 2021 of the school authority is *dehors* the provisions of the rules and therefore stands set aside.

8. So far as the other ground of rejection that the petitioner is not included in 10% of the senior-most teachers, since after such rejection more than four years have elapsed, this Court is of the view with the passage of such period there might have been a change in staff strength in the said school, which factor can be considered by the school authority in the event a fresh application is submitted by the petitioner.
9. Accordingly, the petitioner is granted liberty to submit a fresh application seeking transfer before the school authority within a period of four weeks. In the event such application is submitted before the school authority within the aforementioned time, the school authority shall consider the same in accordance with law as per prevailing rules and if the petitioner is found eligible shall forward

the same to the concerned District Inspector of Schools within a period of six weeks from the date of submission of such application.

10. With the above direction, the writ petition being **WPA 792 of 2026** stands disposed of.
11. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
12. Interim order, if any, stands vacated.
13. All connected applications, if any, stand disposed of.
14. There shall be no order as to costs.
15. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
16. 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.)