

08.11.2021
Sl. No.136
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Via Video Conference)

WPA 9914 of 2021
with
CAN 1 of 2021
(not in the file)

Sm. Debashmita Dutta
Vs.
State Bank of India & Ors.

Mr. Dilip Kumar Samanta,
Mr. Biswapriya Samanta

....for the petitioner.

Mr. Debashis Saha,
Ms. Dipika Banu,
Ms. Namrata Chatterjee,
Mr. Souvik Dian

....for State Bank of India.

Affidavit of service filed in Court is taken on record.

This is the second round of litigation filed by the petitioner. The petitioner says that while working at Jagannath Chawk Branch of State Bank of India (in short "SBI") in the district of Paschim Midnapore, the petitioner was subjected to sexual harassment at work place. The employer, SBI transferred the petitioner to Panchkuri Branch also in Paschim Midnapore district on the petitioner's request for transfer. The petitioner says that she was prevented from working Panchkuri Branch after joining while SBI says that she did not attend the office after joining there and as such, she was an unauthorised

absentee. Ultimately, the petitioner was dismissed from service due to unauthorised absenteeism. This order of dismissal was challenged by the petitioner on diverse grounds including lack of jurisdiction on the part of the officer passing such order of dismissal. A writ petition filed by the petitioner being WPA 11464 of 2020 was allowed by an order dated 19th January, 2021 as the bank agreed to allow the petitioner to join at Panchkuri Branch. The petitioner is now claiming arrears of salary for the period petitioner alleges to have been prevented from working after joining at Panchkuri Branch till the time she joined the said branch in terms of the order dated 19th January, 2021. The petitioner has directly approached the Court without ventilating her grievances before the authority concerned for the arrears of salary. The issue as to whether the petitioner is entitled to arrears of salary or not is dependent on various aspects which include the service conditions of the petitioner as also appreciation of certain factual matters.

The writ Court, at the first instance, cannot go into the factual aspects unless the same are admitted facts. In view of the rival contentions, it cannot be said that the petitioner's case is based on admitted facts.

After considering the submissions made on behalf of the parties, I think justice will be sub-served if the petitioner is directed to make an application/representation before the respondent no.3 claiming arrears of salary within a period of fortnight from date. In the event the petitioner makes such application, the same shall be considered and disposed of by a reasoned order by the respondent no.3 after giving the petitioner a reasonable opportunity to represent her case following the prevalent COVID - 19 protocol within a period of eight weeks from the date of the application/representation being made.

Parties including the respondent no.3 shall act on the basis of a server copy of this order without insisting upon production of a certified copy thereof. The respondent no.3 shall also be free to decide the petitioner's case afresh since I have not gone into the merits of the case and communicate the reasoned order within ten days from passing of the same.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of along with the connected application without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Arindam Mukherjee, J.)