

Item No.12

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

17.01.2022
Ct-24

WPA 2510 of 2020
Munmun Ghosh

v.

State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya
Mr. Anindya Bhattacharya
Mr. Priyabrata Batabyal
... for the petitioner.

Mr. Subir Sanyal
Mr. Ratul Biswas
... for the Council.

Being aggrieved by the transfer order dated December 17, 2014 the petitioner approached this Court by filing a writ petition being WP 4590(W) of 2015.

The Court by order dated March 3, 2015 restrained the writ petitioner from joining the new school until further orders.

Taking advantage of the order the petitioner neither joined the transferee school nor joined the school from where she was transferred. The petitioner simply stayed at home and received her salary.

It appears from the report filed by the Chairman, Howrah District Primary School Council that the petitioner remained absent unauthorizedly for 1288 days. However, the salary for the period of 1288 days

was inadvertently paid to her. As soon as the Council came to learn about her absence, instruction was given to stop the salary and show cause notice was issued.

It appears that the petitioner has overdrawn salary of Rs. 4,91,352/- for twenty-seven months from March 2015 to May 2017. The Council has mentioned in the report that the petitioner is not entitled to such amount and the respondents are authorized to recover the amount from the petitioner on the plea of no work, no pay.

Presently, the petitioner prays for a direction upon the respondent authority to adjust her admissible leave against the aforesaid period of 1288 days.

Though, the petitioner submits that an application for adjustment of admissible leave has been filed before the respondent Council, there is nothing on record to show that the said application was actually made.

In view of the above, the instant writ petition is disposed of by granting leave to the petitioner to make appropriate application before the Howrah District Primary School Council along with all supporting documents in support of her leave within a fortnight from date.

In the event, such an application is made within the aforesaid time, the Chairman of the Council being the respondent no. 5 shall consider the application filed

by the petitioner strictly in accordance with law, within a period of eight weeks from the date of receipt of the said application. If required, the petitioner may be afforded an opportunity of hearing.

The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the said respondent at the time of consideration of the application of the petitioner.

The writ petition stands disposed of.

Exception to the report filed by the petitioner in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)