

16-08-2022
ct no. 13
Sl. 15
pk

WPA 2056 of 2012

Bikash Roy
-Versus-

The State of West Bengal & Ors.

Mr. Ekramul Bari,
Ms. Tanuja Basak

....for the petitioner

The writ petitioner was working as an Assistant Teacher in Mathematics and Science Group in Shimulia High School. He was implicated in a criminal case under Section 498A read with Section 34 of the Indian Penal Code in connection with Ranaghat Police Station Case No. 501 of 2011 dated 13.10.2011. He absented himself from the school from 16.08.2011 to 15.11.2011. The petitioner was enlarged on bail by a Division Bench of this Court on 02.12.2011.

It is submitted by counsel for the petitioner that on 16.11.2011 the petitioner went to school to resume his duty but he was not allowed to join by the Headmaster. As a pre condition of such joining, he was asked to take back his wife.

This Court sees that the criminal proceeding against the petitioner did not arise in course of employment and was purely domestic and personal affair. Insofar as the absence from

16th August, 2011 to 15th November, 2011 a decision may be taken by the School in accordance with law. The petitioner subject to producing the current status of the pending criminal proceeding, may be allowed to join the service of the school. For the period absence from 16.08.2011 till his probable date of joining the petitioner shall not be paid any salary or emoluments. The period shall be considered notionally for the purpose of his tenure of service.

The School may take appropriate legal opinion, if necessary on the criminal proceeding against the petitioner. It is reiterated as already stated herein above that since the criminal proceeding against the petitioner arose outside the duties of a school, the same cannot be a ground for refusing to allow him to join back his service if he is otherwise entitled to.

The aforesaid shall apply if the petitioner has not otherwise joined in the School, during the pending of the criminal proceedings.

With the aforesaid observations, the writ petition shall stand disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)