

WPA 4820 of 2016

Rajashree Mallik
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari
Sk. Imtiaj Uddin

...for the petitioner

Ms. Chaitali Bhattacharya
Mr. Mrinal Kanti Biswas
...for the State

Ms. Koyeli Bhattacharyya
...for the WBBSE

Mr. Debabrata Dhar
Mr. Prodyot Roy
...for the School Authority

Petitioner is an approved Assistant Teacher of Deshbandhunagar Girls' High School, District-Jalpaiguri (hereinafter referred to as the 'said school'). Petitioner functioned as an assistant teacher on substantive basis till the month of June, 2011 and thereafter she remained absent.

Mr. Ekramul Bari, learned advocate representing the petitioner has drawn notice of this Court to one letter dated 5th February, 2013 issued by the Secretary of the said school whereby petitioner was requested by the school authority to resume her duty. Subsequently, the school authority forwarded another letter to the petitioner dated 17th July, 2015 whereby the petitioner was requested to submit resignation letter. It has been

contended on behalf of the petitioner that on 14th September, 2015 and 20th August, 2015 petitioner expressed her desire to resume her duty. Thereafter, the said school authority by issuing letter dated 19th February, 2016 addressed to the petitioner informed her that the issue was forwarded to the concerned authority of the West Bengal Board of Secondary Education for taking decision on sanction of leave enjoyed by the petitioner as well as discharging of her duty as Assistant Teacher.

The grievance voiced on behalf of the petitioner is in spite of this letter dated 19th February, 2016 issued by the said school authority till date she has not received any communication and decision neither from the school authority nor from the Board as a result whereof he is being unnecessarily restrained by the concerned respondent authorities from resumption of duty.

Mr. Debabrata Dhar, learned advocate representing the said school authority submits that petitioner remained absent from the month of July, 2011 for a considerable period of time and she did not express her willingness to resume duty in spite of sending letter dated 5th February, 2013 to the petitioner requesting her to join the school as an Assistant Teacher. Finding no other alternative school authority took decision to approach the petitioner for submission of resignation letter in the academic interest of the students of the said

school and to that extent a letter dated 17th July, 2015 was sent to the petitioner.

It has also been submitted before this Court that one letter dated 19th February, 2016 was sent to the Secretary, West Bengal Board of Secondary Education, whereby the school authority approach the Board for obtaining decision on regularisation of leave enjoyed by the petitioner as well as resumption of her duty.

It has further been submitted that such letter dated 19th February, 2016 was sent to the Board under the registered post on 23rd February, 2016, in support of the same postal slip is annexed to the report filed on behalf of the school authority today which is taken on record.

However, Ms. Koyeli Bhattacharyya, learned advocate representing the Board has disputed receipt of such letter dated 19th February, 2016 of the said school authority by the Board and according to the Board no such letter has been received contemporaneously by the Board as a result whereof no decision could be taken.

This Court has heard the learned advocates representing the parties and perused the materials available on record. It transpires from the case made out by the petitioner that after petitioner remained absent in the school from the month of July, 2011 said school authority by forwarding a letter dated 5th February, 2013 requested the petitioner to resume her duty immediately but in spite of

receipt of the same during said period of more than 2 (two) years the petitioner made no attempt to join her post.

This Court is at a loss as to why petitioner did not resume her duty just after receiving letter of the said school authority dated 5th February, 2013 and waited till 14th September, 2015. No plausible explanation is forthcoming for her absence in the school from the month of February, 2013 till September, 2015.

However, it further appears that Board has been approached by the school authority albeit the same has been disputed by the Board; this Court finds it proper to grant leave to the petitioner to make a comprehensive representation to the Board within a period of 4 (four) weeks from date for regularisation of the leave enjoyed by the petitioner as well as for resumption of her duty. It is necessary to note herein that in spite of absence of the petitioner from the month of July, 2011 till date no disciplinary proceeding has been initiated by the school authority neither petitioner has been placed under suspension. Therefore, it will be within the domain of the Secretary of the Board to take decision on such representation, if made by the petitioner within the aforesaid time.

The Secretary of the Board is further directed to grant opportunity of hearing of the petitioner or her representative and said school authority as well as the concerned District Inspector of Schools (SE), Jalpaiguri and pass a reasoned order within a period of 8 (eight) weeks from the date of receipt of such representation and communicate the decision to the petitioner within 2 (two) weeks thereafter.

Since no affidavits are called for the allegations contained in this writ petition are deemed to have been disputed.

With the aforesaid direction, the writ petitioner stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)