

69 **08.06.
2022**
Ct. No. 04

Ab

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.

WP.CT 52 of 2019

Nibedita Bhattacharjee
Vs.
Bharat Sanchar Nigam Limited and others.

Despite the notice to the learned Advocate appearing for the respondents, there is no representation on their behalf.

Mr. Tapas Kumar Bhattacharjee appearing for the writ petitioner as an authorized representative submits that even today he has communicated Mr. Chandra Sekhar Bag, learned Advocate appearing for the respondents, that this matter is likely to be taken up today. Despite the same, Mr. Bag has not appeared.

The writ petitioner worked under the respondent organization for more than 33 years and applied for voluntary retirement on medical ground. The said application was kept pending for a pretty long time and alleged to have been returned to be submitted through proper channel. Since the writ petitioner has applied for voluntary retirement on medical ground, she was unable to join the duty and, in fact, submitted leave application along with supporting medical documents periodically with the authorities.

Since the application for voluntary retirement was not attended to, the writ petitioner filed the tribunal application for seeking her relieve from service on voluntary retirement and disbursement of the entitlement attributable thereto. The tribunal disposed of the application with categorical finding that the representation made by the writ petitioner is neither

annexed to the application nor could be demonstrated when the said application was taken out. It is further indicated that the certificate issued by the registered Doctor has not been produced before the tribunal. The tribunal, therefore, granted liberty to the writ petitioner to submit the medical certificate in terms of the communication dated 11th October 2017 within a specified time.

It appears from the documents annexed to the writ petition that several leave applications were filed annexing the supporting medical documents. The aforesaid statements and/or the documents also appeared to have been annexed with the application filed before the tribunal. Further, the filing of the aforesaid applications have been accepted by the respondent authorities while causing the letter dated 25th August 2016 issued by the respondent authorities.

Since the core issue relates to the grant of voluntary retirement and regularization of the unauthorized absence, the tribunal ought to have decided the same on merit instead of disposing of the matter in a slipshod manner.

In absence of any counter evidence having produced by the respondents, as they are not appearing and solely relying upon the documents produced in the writ petition as well as the tribunal application, we feel that such observation of the tribunal cannot be substantiated. Accordingly, the order impugned is set aside.

The matter is remanded to the tribunal for disposal on merit. The tribunal is requested to dispose of the proceedings within three months from the date of communication of this order after affording an opportunity of hearing to the respondents and by recording proper reasons.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)