

22 05-12-2022
AKG
Ct. 238

WPA 22359 of 2016
Smt. Nilima Thakur
Vs.
State of West Bengal & Ors.

Mr. Murari Mohan Das,
Mr. Priyabrata Batabyal
...for the Petitioner
Mr. Achintya Banerjee,
Mr. Mehboob Ahmed
...for the University
Mr. Supriyo Chattopadhyay,
Mr. Manas Sadhu
...for the State

The petitioner was a lecturer at Sanskrit of Srigopal Banerjee College, Magra, Hooghly. She was appointed to the said post on April 5, 1978 and retired as an Associate Professor on June 30, 2009. She was given the credit of earned leave for 166 days, but the period from April 5, 1978 to April 14, 1984 was not counted for accumulation of earned leave. The reasoned order of the Registrar, University of Burdwan dated May 27, 2016 which has been challenged in this writ petition suggests that the petitioner was given the credit of earned leave only after April 15, 1984 since from that day the Statutes, Ordinances and Regulations of Burdwan University came into force. The said order further suggests that before that date, there was another Ordinance namely, "Ordinance relating to the appointment and terms and conditions of service of Teachers in affiliated colleges, 1959", which was not applicable to a government sponsored college or a

government college. Since the petitioner was serving in a government sponsored college, she was not entitled to get any earned leave on the basis of the said Ordinances of 1959. Her entitlement as to earned leave, therefore, was counted only from April 15, 1984.

It has been argued by the petitioner that a plain reading of the relevant Statutes and Ordinances of the Burdwan University will show that the petitioner is entitled to earned leave of 240 days, after taking into consideration the total length of service. According to the petitioner, the Burdwan University Act, 1981 or the First Statute of the University does not exclude the service rendered before April 15, 1984 for the purpose of counting earned leave.

As suggested by the parties, without entering into the merit of the controversy, I direct the Director of Public Instructions to consider whether the petitioner is entitled to earned leave for the period between April 5, 1978 and April 14, 1984. If the said authority decides the issue in favour of the petitioner, she may be given the credit of earned leave for the said period within one month from the date of communication of this order.

With the aforesaid directions, **WPA 22359 of 2016** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)