

Item No.303

In the High Court At Calcutta
Special Jurisdiction
Appellate Side

31.08.2023
Ct-24

CPAN 1137 of 2022

In

WPA 31101 of 2017

Arpita Biswas

v.

Badal Kumar Patra & Ors.

Mr. Sunit Kumar Roy

Mr. Debasis Moitra

... for the petitioner.

Mr. Supriyo Chattopadhyay

Ms. Sayantanee Bhattacharjee

... for the contemnor nos. 1 & 2.

Mr. Bhaskar Prasad Vaisya

... for the contemnor no. 3.

Mr. Ratul Biswas

Mr. Kaushik Chowdhury

Ms. Mina Biswas

... for the contemnor no. 4.

The original staff attendance register of the school for the month of February 2017 has been produced in Court. It appears therefrom that the petitioner did actually join the school and put her signature in the attendance register on February 3, 2017 & February 4, 2017. February 5, 2017 was a Sunday and on February 6, 2017 the appointment letter of the petitioner stood cancelled.

The cancellation of the appointment of the petitioner was set at naught by this Court with a direction for reinstatement. The authority complied the direction passed by the Court, but instead of issuing an order of reinstatement issued a fresh appointment letter

on June 9, 2022 and the petitioner actually joined the school on June 10, 2022.

The petitioner submits that as there was a direction for reinstatement, there was no requirement of issuing a fresh letter of appointment.

It appears from the submissions made on behalf of the parties and on perusal of the records that the moment the order of cancellation of appointment of the petitioner was set aside by the Court with direction for reinstatement, accordingly, the reinstatement ought to take place on and from the date the order of cancellation was issued. There was actually no requirement of issuance of a fresh letter of appointment.

The petitioner already joined the school by signing the attendance register on February 3, 2017. Because of the cancellation of her letter of appointment she was not in a position to serve the school on and from February 6, 2017 till June 9, 2022.

As the petitioner was restrained from joining the school and practically did not serve the school for the aforesaid period, she will not be entitled to the salary but the authority is directed to provide all notional benefit to the petitioner. The service of the petitioner shall be treated as continuous on and from February 3, 2017 and the period during which the petitioner could not serve the school, for no fault of her own, should not be treated as a break in service.

The contempt application, accordingly, stands disposed of.

The original attendance register is perused and returned to the learned advocate representing the contemnor nos. 1 & 2.

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

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(Amrita Sinha, J.)