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Ct-08

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MAT 363 of 2023

with

I.A No. CAN 1 of 2023

Mousumi Sarkar (Sau)

Vs.

The State of West Bengal & Ors.

Mr. .N.G. Mukherjee

Ms. Kaushiki Chakraborty

Ms. T. Biswas

... For the Appellant

Mr. Supriyo Chattopadhyay, Ld. AGP

Ms. Sayantanee Bhattacharjee

... For the State

Ms. Koyeli Bhattacharyya

... For the W.B.B.S.E

The appeal is arising out of the judgment and order dated 30th January, 2023 in connection with a writ petition challenging the order passed by the President of the Ad-hoc Committee, W.B.B.S.E by which the representation made by the writ petitioner to resume her duty in the school was rejected.

Shorn of details, the petitioner was appointed as an Assistant Teacher of Matigara Balika Vidyalaya, District-Darjeeling. She absented herself on and from 9th July, 2007.

The appellant/petitioner on 21.7.2007 sent a letter to the school authority for leave without pay from 09.7.2007 to 18.7.2007 due to her primary infertility. Thereafter on 10th April, 2008 she sent another letter to the school authority for

leave without pay for six months without mentioning any specific dates on the same ground. Thereafter, she wrote a series of letters in between 22nd September, 2009 to 24th November, 2011 to the school authority for leave without pay on the same ground of primary infertility.

The Managing Committee of the school issued two letters on 18th May, 2010 and 19th May, 2011 requesting her to resume her duty. Those letters were, however, returned back by the postal department with the remark “left without address”. Those letters were sent by the school authority to the same address from where the above letters were written by the appellant. The Headmistress reported the D.I regarding the issue of long absence of the petitioner on 22nd February, 2012. Admittedly, thereafter for nine years there was no communication from the side the appellant to the school authority.

After a gap of almost nine years the writ petitioner/appellant on 17th February, 2020 sent a letter to the school authority expressing her willingness to rejoin her duty citing miserable financial condition. The authority concerned rejected the said representation of the petitioner

on the ground that she was absent from school for a continuous period of almost 15 years and in view of the facts and circumstances it shall be considered to be a deemed resignation under Rule 11(I) of the Leave Rules, which was not considered by the President, Ad-hoc Committee, W.B.B.S.E.

We could not find any exceptional circumstances for which the application for resumption of duty of the appellant would have been favourably considered. We could not also find any reason why the appellant did not approach the school authority for almost nine years.

Under such circumstances, we could not find any reason to interfere with the order passed by the learned Single Judge dismissing the writ petition.

On such consideration, the appeal being MAT 363 of 2023 stands dismissed.

In view of dismissal of the appeal, nothing remains to be decided in the application for stay being CAN 1 of 2023 and the same is accordingly dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)

