

55 11.7.2023
ML Ct. no.22
Sc

WPA 6443 OF 2018

Tapati Kalapahar

Vs.

The State of West Bengal & Ors.

Mr. Ekramul Bari
Ms. Tanuja Basak.

....For the Petitioner

Affidavit-of-service, filed in Court today, is taken on record.

The petitioner claimed **Child Care Leave** for the period from **February 16, 2018 till March 3, 2018**. The relevant school authority by its decisions dated **March 5, 2018 at page 24, April 4, 2018 at page 28 and April 18, 2018 at page 31** to the writ petition had **rejected such leave** on the principal plea that, such leave was allegedly taken without obtaining any prior permission or approval from the managing committee of the relevant school.

Mr. Ekramul Bari, learned counsel appearing for the petitioner submitted that, the reasons allegedly shown while rejecting the **Child Care Leave** of the petitioner was not supported by any documentary

evidence and no such permission is required in law for obtaining a ***Child Care Leave***.

Mr. Bari also submitted that, the petitioner, in compliance with all the statutory formalities, had applied for ***Child Care Leave*** and there was no reason as to why the same should not be granted.

The State respondents and the school authority chose not to be represented today. On the previous occasions also the respondents chose not to be represented.

Considering the submissions made on behalf of the petitioner and considering the order passed by this Court on ***June 9, 2023***, it appeared to this Court that, any further pendency of this writ petition will cause unnecessary delay in advancing justice to the petitioner, more so, when the respondents chose not to be represented repeatedly, despite notice.

In view of the above, to subserve justice the respondent no.2, upon issuing at least a seven days' prior hearing notice to the petitioner and the respondent nos. 4 and 5 and after hearing them, shall decide the issue on the basis of the available materials annexed to the writ petition and shall pass a reasoned order strictly in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.2 positively

within a period of **six weeks** from the date of communication of this order.

It is made clear that, this Court has not gone into the merits of the claim of the writ petitioner in any manner, neither the merits of the grounds on the basis whereof the school authority had rejected the claim of the petitioner.

The petitioner and the school authority, as directed above, shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.2.

The school authority shall produce all the records and documents pertaining to the Child Care Leave, claimed by the petitioner before the respondent no.2.

It is made clear that, this order shall not create any equity or right in favour of the petitioner, in the event, after considering everything and all the factual matrix the petitioner is found to be ineligible to receive her claim in accordance with law.

In the event the reasoned decision goes in favour of the petitioner then the relevant School authority shall give effect thereto immediately in accordance with law but positively within a period of **two weeks** from the date of the said reasoned order to be communicated to the school authority.

The respondent no.2 shall communicate its reasoned decision to the petitioner and the respondent nos. 4 and 5

within a period of two weeks from the date of the said reasoned order to be passed.

On the above terms this writ petition, ***WPA 6443 of 2018 stands disposed of***, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)