

65.
28.2.2023
S.D.

W.P.A. 19801 of 2022

Smt. Shampa Gorai (Purakayastha)
Vs.
The State of West Bengal & Ors.

Mr. Tanmoy Basu
Mr. Arun Shaw
Mr. Debdip Mandal

... For the Petitioner

Ms. Sutapa Sanyal
Ms. Susnita Saha

...For the State

The petitioner's grievance is that her prayer for maternity leave should have been granted from November 14, 2019 till May 11, 2020 instead of January 15, 2020 to July 12, 2020. The petitioner has prayed for setting aside of the order dated March 11, 2022 passed by the District Education Officer, Samagra Siksha Mission, Bankura.

The petitioner is employed as a Special Educator with the office of the Circle Project Coordinator.

Pursuant to an order passed by a Coordinate Bench on October 1, 2021, the petitioner was given a hearing by the concerned authority on November 2, 2021. In the said order, it was recorded that the petitioner instead of producing medical certificate regarding her pregnancy submitted a copy

of the FIR lodged with the Bishnupur Police Station, copy of seizure list of her documents in respect of Case No. 1 of 2021 of the Bishnupur Police Station dated February 5, 2021. Therefore, it could not be decided whether the petitioner was pregnant during her period of absence. The petitioner's prayer for grant of maternity leave could not be considered.

Mr. Basu, learned counsel appears on behalf of the petitioner and submits that the order passed by the Coordinate Bench has not been complied as the petitioner's prayer for maternity leave from November 14, 2019 to January 14, 2020 was not considered.

Ms. Sanyal, learned counsel appears on behalf of the respondent authorities and submits that by an application dated January 17, 2020, the petitioner herself prayed for maternity leave from January 15, 2020. The petitioner was given a hearing on February 21, 2022 regarding the approval of the said maternity leave and her maternity leave was granted from January 15, 2020 to July 12, 2020 as per the request of the petitioner. Furthermore, she draws the attention of this Court to the statements made in paragraphs (iv), (xi) and (xii) of the exception affirmed on February 6, 2023 by the petitioner. It appears from the said exception filed to the report that the petitioner herself prayed for

maternity leave from January 3, 2020. Therefore, she submits that there is no question of granting of maternity leave from November 2019 to the petitioner.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the petitioner herself has not been able to make a clear case as to the date from which she prayed for maternity leave.

Without going into the disputed question of fact regarding the validity of the purported document dated January 17, 2022 whereby it appears that she herself made an application for maternity leave from January 15, 2020, this Court directs fresh consideration of the prayer of the petitioner for maternity leave from January 3, 2020 since on affidavit, the petitioner has stated that she has applied for leave from the said date. This Court finds that the order dated November 2, 2021 is cryptic and lacks reasoning. Therefore, the said order cannot be relied upon as a basis of the order dated March 11, 2022. Therefore, both the orders dated November 2, 2021 and March 11, 2022 are set aside and/or quashed. In the event, the petitioner makes a fresh application for consideration of her maternity leave from January 3, 2020, the same shall be considered in accordance with law within three months from the date of submission of

the application upon giving a personal hearing to the petitioner. A reasoned order shall be passed and communicated to the petitioner within two weeks of passing thereof.

With the directions aforesaid, **W.P.A. 19801 of 2022** is **disposed of**.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)