

15.03.2023
Item No.09
Court No.18
AJ.

W.P.A. 27690 of 2022

Sanchita Bera

-Vs-

The State of West Bengal & Ors.

Mr. Golam Mastafa,
Mr. Tarasankar Samanta.
.....for the petitioner.

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee.
.....for the State.

Ms. Koyeli Bhattacharyya.
.....for the WBBSE.

Mr. Anup Dasgupta.
.....for the respondent no.4.

The petitioner, in the year 2009, was appointed as an Assistant Teacher of Sultanpur Stri Siksha Niketan, Purba Medinipur.

On and from September 2017, she stopped attending the school and remained absent for about three years. However, on October 4, 2021, she again joined the school.

The petitioner approached the School Authority praying Child Care Leave for the period from November 03, 2017 to December 03, 2017 and grant of leave for the said period of absence treating her 'on duty'.

The petitioner complaining non-consideration of her aforesaid prayers, earlier filed a writ petition being W.P.A. 89 of 2018 which was disposed by the Co-ordinate Bench vide order dated December 23, 2021 by directing the District Inspector of Schools (S.E.), Purba

Medinipur the respondent no. 2 herein to hold a meeting with the School Authority and the petitioner to arrive at a decision on the said prayers of the petitioner.

The respondent no. 2 by the impugned Memorandum bearing No. 370(5)-Law dated November 07, 2022 has complied with the aforesaid direction in the following manner:-

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- i) The petitioner should submit application for Child Care Leave before the School Authority and the School Authority should take appropriate action on her prayer as per Rule.
- ii) The petitioner should submit leave application before the School Authority for the period she remained absent at school and the School Authority should take decision for regularizing leave of the petitioner as per existing leave Rule.”

During the pendency of the present writ petition the Managing Committee of the said school by its resolution dated March 04, 2023 has allowed the prayer of the petitioner for the Child Care Leave but refused to allow the prayer of the petitioner to grant leave for the period from December 04, 2017 to October 03, 2021 i.e. the period during which she did not attend the

school, instead referred the issue to the West Bengal Board of Secondary Education holding that the Managing Committee is not competent to entertain the said prayer of the petitioner.

Copy of the said resolution filed by Mr. Dasgupta, learned Advocate for the school authority is taken on record.

The West Bengal Board of Secondary Education is the competent authority to consider the prayer of the petitioner for grant of leave for the period during which she remained absent in her duty.

The President of the Board, therefore, after giving opportunity of being heard to the petitioner and all other concerned parties shall decide the said issue in accordance with law as expeditiously as possible preferably within eight weeks from the date of communication of this order. The decision shall be communicated to the petitioner and to the school authority.

The petitioner and the respondent no. 3 are obliged to provide all necessary documents relevant to decide the said issue to the President of the Board.

It is made clear that this Court has not gone into the merit of the prayer of the petitioner for the said leave, it is for the President of the

Board to decide the same on the basis of the materials made available to him.

W.P.A. 27690 of 2022 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)