

20 22.06.2023
tkm Ct. no.22

WPA 10995 OF 2020

Dipak Kumar Jana

Vs.

State of West Bengal & Ors.

Mr. Ramdulal Manna
Ms. Manju Manna (Dey)
Mr. Sayan Mukherjee
Ms. Mitali Mondal
Ms. Payel Khanra

....For the Petitioner

None appeared for the respondents.

The petitioner claimed to be an assistant teacher. He joined one Dakshin Kasimnagar High School (H.S) with effect from **February 2, 1999**. He was absent from his duty during the period **June 26, 2007** till **January 1, 2009**. The petitioner claimed for authorized leave for such period.

In the first round of writ litigation the petitioner filed a writ petition being **WPA 6773(/w) of 2020** which was disposed of by a co-ordinate Bench through an **order dated September 21, 2020, Annexure P-7 at page 27** to the writ petition directing the Managing Committee of the school being the respondent no. 5 therein to consider and dispose of the case of the petitioner with a reasoned order.

Pursuant to and in terms of the said direction of the co-ordinate Bench, the Managing Committee of the

relevant school decided the case by passing a reasoned undated order **Annexure P-8 at page 29** to the writ petition. The said impugned order is under challenge in this second round of writ litigation.

Exercising the power of judicial review under Article 226 of the Constitution of India, this Court has a very limited jurisdiction to assess the impugned order only to the extent of its decision making process unless there is a glaring perversity on the face of it.

This Court in exercise of such jurisdiction as above, had scrutinized the said impugned order **Annexure P-8 at page 29** to the writ petition.

On a scrutiny of the said impugned order it appeared to this Court that the decision making authority had considered all the relevant materials before it and then passed the impugned order, which is otherwise a well-versed one. The reasons were sufficiently embodied in the said impugned order. The principal ground on which the petitioner did not succeed to his claim that admittedly the petitioner was absent in performing his duty during the period from **June 26, 2007** till **January 1, 2009** and in support of his contention that he was not medically fit to attend his duty during this period and as such he was eligible for being granted an authorized medical leave for the said period, the petitioner could not furnish an iota of evidence before the hearing authority. More so, from the fact recorded in the impugned order

and the materials discussed therein before the hearing officer, it would be evident that the petitioner had raised his claim after an inordinate delay, instead raising his claim contemporaneously. Even on such a delayed claim the petitioner failed to produce the relevant materials in support before the hearing officer and as a result, the hearing authority came to a conclusion that the absence was unauthorized which could not be regularized in accordance with law.

Mr. Ram Dulal Manna, learned counsel appearing for the petitioner referring to **annexure P-3 at page 20** to the writ petition submitted that this letter of the petitioner was sent to the Secretary of the Managing Committee of the relevant school dated **October 16, 2007**, through registered post with AD and the postal envelop annexed to the writ petition showed that the document was refused to be accepted by the addressee. On perusal of the said document, it appeared to this Court that, this is not such an unimpeachable evidence for which a doubt can be raised in the mind of this Court as to the worth of the decision making process of the hearing authority.

On an overall assessment of the materials before this Court, this Court is of the firm view that, **there is no infirmity** in the impugned order passed by the Managing Committee of the relevant school, **Annexure P-8 at page**

29 to the writ petition, as such the same **stands affirmed.**

The writ petition is devoid of any merit.

Resultantly, this writ petition **WPA 10995 of 2020** stands dismissed, without any order as to costs.

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

(Aniruddha Roy, J.)