

Ml- 10.06.2024
28 Ct.18
rkd

W.P.A. 6330 of 2022

Priyanka Roy

-vs-

The State of West Bengal & Ors.

Mr. Saktipada Jana

....for the petitioner.

Mr. Pinaki Dhole,

Mr. Rabindra Kumar Pathak

....for the respondent nos.3 & 4.

Petitioner is an Assistant Teacher in a Secondary School who applied for Child Care Leave for a period of 45 days on 6th August, 2019 on the ground that the petitioner at that point of time had to feed her baby of four months. In spite of making such application seeking Child Care Leave contemporaneously no decision was taken by the school authorities of Panchakari Radharani Adarsha Vidyalaya for Girls (for short "said school") as a result whereof petitioner went on leave after waiting till 16th August, 2019 for a period of 45 days i.e. upto 30th September, 2019. Subsequently, petitioner resumed her duty as an Assistant Teacher of the said school.

Mr. Jana, learned advocate representing the petitioner has drawn attention of this Court to the Managing Committee Resolution dated 14th

December, 2019 wherein the said school authority decided to grant 15 days Child Care Leave instead of 45 days and by another communication dated 11th February, 2022 the Teacher-in-Charge of the said school asked the petitioner to apply for granting medical leave for the rest of the period of 30 days. Therefore, according to the petitioner the said school authority decided to grant 15 days Child Care Leave and 30 days Medical Leave if appropriate application is made by the petitioner seeking grant of medical leave which according to the petitioner is preposterous.

Mr. Dhole, learned advocate representing the said school authority has made submission to defend the decision taken by the said school authority vide resolution dated 14th December, 2019 and the stand which has been expressed vide subsequent communication dated 11th February, 2022 which is at page 28 of the writ petition. On behalf of the said school authority prayer has also been made to grant opportunity to file affidavit-in-opposition to the writ petition.

Having considered the submissions made on behalf of the petitioner and the school authority and on perusal of the relevant documents on record, it transpires that the petitioner for feeding

her baby of four months prayed for Child Care Leave for a period of 45 days vide application dated 6th August, 2019.

Petitioner waited till 16th August, 2019 for the decision to be taken by the said school authority and subsequently on finding that no such decision was taken she was compelled to go on leave for a period of 45 days with effect from 17th August, 2019 to 30th September, 2019. Thereafter, the Managing Committee of the said school took surprising stand as it emanates from the resolution of the Managing Committee dated 14th December, 2019 and the communication dated 11th February, 2022 made by the Teacher-in-Charge addressed to the petitioner. Vide resolution dated 14th December, 2019 the said school authority decided to grant 15 days Child Care Leave against the application of the petitioner seeking Child Care Leave of 45 days and by subsequent communication dated 11th February, 2022 the said school authority through the Teacher-in-Charge asked the petitioner to apply for medical leave for a period of 30 days.

Albeit stand is taken at the bar during course of hearing that the presence of the petitioner was required during the period for the academic interest of the students of the school but such

stand as taken at the bar is not inconsonance with the stand emanates from the two documents, one dated 14th December, 2019 i.e. Managing Committee Resolution and the subsequent communication dated 11th February, 2022. If the said school authority restricted the Child Care Leave of the petitioner for a period of 15 days and not beyond that in consideration of the academic interest of the students of the school then the question would have been different. But here in the instant case the said school authority decided to bifurcate the 45 days period into 15 days and 30 days thereby taking a stand that 15 days leave is to be granted towards Child Care Leave and on making appropriate application 30 days Medical Leave would be granted; such stand of the said school authority cannot be countenanced.

In addition thereto, the petitioner being the lady teacher has also got right to take care of her child of four months since at that tender age a child requires exclusive care of mother. It is also submitted on behalf of the petitioner that the child is suffering from Thalassemia and in support of the same a document has been annexed in the writ petition at page 23.

In view of the aforesaid discussion, the

decision of the said school authority to grant 15 days Child Care Leave instead of 45 days as taken in the Managing Committee Resolution dated 14th December, 2019 stands set aside.

The concerned authority of the said school is directed to grant Child Care Leave of 45 days in favour of the petitioner by taking appropriate Managing Committee Resolution within a period of four weeks from the date of communication of this order.

Accordingly, the writ petition stands allowed.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)