

06.02.2024
SI No.3
Court No.8
(gc)

**FMA 1323 of 2022
CAN 1 of 2022**

**Debasmita Dutta
Vs.
State Bank of India & Ors.**

Mr. Dilip Kumar Samanta,
Mr. Biswapriya Samanta
...for the Appellant.
Mr. Subrata Kumar Sinha
...for the Respondents.

1. We have heard the learned Counsel for the parties.
2. In view of the admitted position that the petitioner did not work between 17th January, 2019 and 10th December, 2020 without any plausible reason or excuse and it appears to be an unauthorized absence, the petitioner cannot claim salary for such period on the principle of “no work no pay” as has been considered by the Hon’ble Supreme Court in the judgment reported in **(2006) 9 SCC 583 (S.C. Saxena v. Union of India & Ors.)**. This concept of “no work no pay” is often defined as *dies non*. In the instant case, the petitioner has not shown anything to have been prevented from working between 17th January, 2019 and 10th December,

2020. Following the ratio laid down in **(2019) 7 SCC 564 (Chief Regional Manager, United India Insurance Company Limited vs. Siraj Uddin Khan)**, the petitioner is not entitled to any salary between 17th January, 2019 and 9th December, 2020.

3. The learned Single Judge in the impugned order has considered the aforesaid two judgments and has rightly applied the said ratio in the instant case.
4. On such consideration, we do not find any reason to interfere with the order passed by the learned Single Judge.
5. The petitioner had filed a supplementary affidavit to show that the increment on which she was entitled including her medical bill have not been released. However, this is not the subject-matter of the writ petition and we are not deciding the said issue in this proceeding. It is for the authority concerned to consider the said claim if made in accordance with law.
6. Accordingly, the appeal and the application stand disposed of.
7. However, there shall be no order as to costs.

8. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)