

03.09.2024
Court No. 18
Item No. 05
(Suvendu)

WPA 28614 of 2023

Mallika Maity

-Versus-

The State of West Bengal & Ors.

Mr. Subir Sanyal

Mr. Somesh Ghosh

Mr. Sourojit Mukherjee

.....for the petitioner

Mr. Vimal Kumar Shahi, Ld. AGP

Mr. Vijay Agarwal

.....for the State

Mr. Bibek Dutta

.....for the WBBSE

Mr. Shaunak Bhattacharya

Ms. Shalini Sen

...for the respondent no.6

Petitioner was an Assistant Teacher in Nedhua Krishna Balaram Vidyamandir (HS), Paschim Medinipur (for short, 'first school') and she was transferred to Siromoni Birsa Munda High School (HS), Paschim Medinipur (for short, 'second school') where she joined with effect from 29th June, 2022.

Grievance of the petitioner is even after joining transferred post with effect from 29th June, 2022 till date service record of the

petitioner has not been updated by the first school authority upon taking necessary steps including sanctioning maternity leave for the period from 17th November, 2021 till 15th May, 2022. Apart from forwarding Provident Fund statement of the petitioner and other service related documents salient issue is sanctioning of maternity leave in favour of the petitioner for the period from 17th November, 2021 till 15th May, 2022. Petitioner gave birth to a child on 23rd June, 2021 when she was not required to take maternity leave since school was closed due to nation-wide lock down for COVID-19 pandemic. After lifting of lock down petitioner joined the school on 16th November, 2021 and applied for maternity leave on 16th November, 2021 for a period of 180 days from 17th November, 2021 to 15th May, 2022.

From the affidavit filed today by the Additional District Inspector of Schools (SE), Kharagpur it appears that the then Managing Committee of first school adopted resolution on 25th November, 2021 thereby unanimously resolved to sanction maternity leave in favour of the petitioner from 17th November, 2021 to 15th May, 2022 and the said resolution dated 25th

November, 2021 is at pages 11 to 14 of the said affidavit.

However, in spite of sanctioning leave after petitioner joined the second school on 29th June, 2022 papers relating to service of the petitioner including Service Book were not updated and forwarded to the second school by the first school authority which prompted petitioner to come up with the present writ petition and several orders were passed on this writ petition by this Court directing the first school authority to take necessary steps for transmitting service record of the petitioner to her second school where she is presently serving. In spite of several orders passed by this Court first school authority surprisingly adopted a resolution on 22nd July, 2024 thereby revoking earlier resolution of the Managing Committee dated 25th November, 2021 whereby 180 days maternity leave was sanctioned in favour of the petitioner, 34 days maternity leave was sanctioned.

Question arises for consideration how present Managing Committee can revoke decision of erstwhile Managing Committee as contained in the resolution dated 25th November, 2021 thereby adopting a fresh resolution

relating to sanctioning of maternity leave in favour of the petitioner.

It needs to be recorded herein that after adopting resolution on 25th November, 2021 till 21st July, 2024, precisely for a period of more than two and half years present Managing Committee did not take any contrary decision regarding sanctioning of maternity leave in favour of the petitioner and during pendency of this writ petition resolution dated 22nd July, 2024 has been adopted which at first blush appears to be impermissible. Why previous resolution dated 25th November, 2021 is revoked by adopting resolution dated 22nd July, 2024 has not been discussed and disclosed in the resolution dated 22nd July, 2024.

Another aspect needs to be considered that petitioner acted on resolution dated 25th November, 2021 whereby she was granted 180 days medical leave and subsequently she was released for joining the post of Assistant Teacher in the second school with effect from 29th June, 2022. Today, at the time of updating service record of the petitioner including her Service Book present Managing Committee of the first school is not authorized to frustrate previous

resolution dated 25th November, 2021 thereby sanctioning 34 days maternity leave instead of 180 days.

In aforesaid conspectus, resolution of the Managing Committee of the first school dated 22nd July, 2024 stands set aside to the extent of sanctioning maternity leave in favour of petitioner and the resolution dated 25th November, 2021 stands revived, thereby school authority of Nedhua Krishna Balaram Vidyamandir (HS), Paschim Medinipur is directed to update Service Book and leave statement of the petitioner by seven days from date and forward all service related documents including Provident Fund Statement to the present school of the petitioner through District Inspector of Schools (SE), Paschim Medinipur by fortnight thereafter.

The writ petition is accordingly disposed of, without any order as to costs.

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

(Saugata Bhattacharyya, J.)

