

03.09.2025
Ct. No.4
Sl. No.5
akd

W. P. C. T. 42 of 2016

[Dipakmoy Banerjee -Vs- Union of India & Ors.]

Mr. Koustav Bagchi
Mr. Debayan Ghosh
Ms. Priti Kar

... ... for the petitioner

Mr. Rabindra Nath Beg .. Sr. Advocate
Sk. Md. Wasim Akram
Mr. Piyas Chowdhury
Mr. Md. Abdul Gani

... ... for respondent nos.2 to 4

1. The present writ petitioner was absent from duty for a period from 07.09.2000 to 30.09.2002; is claiming the salary for the said period justifying absence on the ground of his attending to his wife, who was undergoing treatment for cancer. The issue was finally raised by the writ petitioner in O.A. 317 of 2011 before the Central Administrative Tribunal, Calcutta Bench (*in short 'Tribunal'*), which dismissed the petitioner's Original Application. The order passed by the Tribunal in O.A. 317 of 2011 was put to challenge by the writ petitioner in a writ proceeding being WPCT 228 of 2012.

2. Considering the facts and circumstances of the case, a coordinate Bench of this Court was of the opinion that the writ petitioner should apply for regularization of the period of service i.e. from 07.09.2000 to 30.09.2002 and the authority concerned was directed to consider his claim. Upon consideration of the claim, a speaking order dated 03/07.01.2013 was passed by the Principal, Kendriya Vidyalaya, Ballygunge. The Principal, upon consideration, found that there was no leave available to the credit of the writ petitioner against which the period could be regularized and thus, rejected the writ petitioner's request.

3. This order has been assailed by the writ petitioner by filing an Original Application being O.A. 294 of 2013, unsuccessfully. The order dated 26.02.2014 dismissing O.A. 294 of 2013 is put to challenge in the present proceeding.

4. We have called upon the learned Advocate appearing for the writ petitioner to show whether the petitioner had any leave to his credit against the period which has to be regularized. It is submitted by the learned Advocate for the writ petitioner, appearing virtually, that during this period, the petitioner was attending to his ailing wife.

5. The issue which is sought to be re-agitated by the writ petitioner stands settled by the order passed in WPCT 228 of 2012. The writ petitioner has acted upon this order by seeking regularization of the period of absence, which was required to be considered in terms of the Rule. There being no leave available to his credit, there was no occasion for the period to be regularized and the speaking order passed to this effect, in our opinion, does not require any interference.

6. The order passed by the Tribunal, therefore, also does not require any interference, in exercise of our extraordinary and discretionary jurisdiction under Article 226 of the Constitution of India.

7. The writ petition is accordingly, dismissed.

8. Urgent Photostat certified copy of the order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)